FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

NANCY LAMADRID ALVAREZ

PETITIONER

Vs.

TERESA LAMADRID ALVAREZ

LILLIAN ALVAREZ LAZZARINI

ERNESTO ALVAREZ LAZZARINI

RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO SUPREME COURT OF PUERTO RICO (DOCKET NUM.CC97-0022)

PETITION FOR WRIT OF CERTIORARI

Rafael A. Oliveras López de Victoria
Edificio Asociación de Maestros 505
Ponce de León Avenue #452
San Juan, P.R. 00918
(787) 764-3280

189 pp

II. QUESTIONS PRESENTED FOR REVIEW

A. Whether the lower court (specifically the Superior Court of Puerto Rico) acted improperly and illegally in violation of the Due Process Clause by ordering the sale of an immovable property prior to judgment without the express consent of appellant Nancy Lamadrid, a co-owner of said property, and without even entertaining a hearing in accordance with Connecticut vs. Dohner, supra, doctrine. See appendix IV page 000073-74, whereby Nancy Lamadrid Alvarez, does not sign the option contract circulated by respondents.

B. Subsidiary to main question, whether the order of the lower court violates Due Process by not granting appellant the opportunity to express herself in sale of immovable property when said court has not even decided the final distribution of her mother's estate between the parties set forth in the original complaint. The lower court decided the sale of said property in less than seven (7) days when it was petitioned motion failed by respondents Ernesto Alvarez and Lilliam Alvarez. A complaint was filed before U.S. District Court against the Trial Judge and the Marshall of said court for said flagrant abuse of power. A judgment was entered by U.S. District Court and thereafter appeal led before the U.S. Court of Appeals.

C. Traditionally, a violation of Due Process has been imputed mainly to the Executive power, our main concern in this case, is whether or not the judicial power of a state may illegally deprive the constitutional rights of its citizens

when this Honorable Supreme Court have establish clear and unambiguous constitutional parameters regarding their property rights as expressed in Connecticut v. Dohner, supra.

This per se constitute extreme national interest otherwise the policy establish by Honorable Court could not be truly enforced.

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Conneticut vs. Dohner

citas:

Title 28 USCA Section 1257

Rule 51 of Rules of Civil Procedure of Puerto Rico

Article 1412 and 1414 of the Civil Code of Puerto Rico (31 LPRA 3922 and 3924).

D. OPINIONS BELOW

A.- Unpublished resolution in reconsideration entered and notified on March 26, 1997, by the Supreme Court of the Commonwealth of Puerto Rico.

B.- Unpublished resolution entered and notified on by the Supreme Court of the Commonwealth of Puerto Rico.

C. Resolution in recommendation entered and notified on by the Circuit Court of Appeals of the Coommonwealth of Puerto Rico.

D. Judgement entered and notified on the Circuit Court of Appeals of the Commonwealth of Puerto Rico.

E. Unpublished orders entered and notified by the Superior Court of Puerto Rico, San Juan.

District in case docket number 97-1526 whereby it forcibly orders the petitioner to sell an inmovable property without due process.

E. JURISDICTION

Petitioner respectfully invokes the jurisdiction of this Honorable Court to review a prior petition for writ of certiorari filed before the Commonwealth of Puerto Rico Supreme Court, dated and finally notified on March 26, 1997, pursuant to 28 USCA, 1257.

F. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner respectfully understands that there is a definite violation of Due Process Clause established in the Fifth and Fourteen Amendments of the U.S. Constitution and as expressed in the case of Connecticut vs. Dohner (No. 90-143, opiinion of June 6 th. 1991, 59 LW 1587).

Petitioner's property rights were violated, in extremis, when the lower court unilaterally ordered the sale of a property without even granting said petitioner the right to a hearing to personally object to said sale.

The lower courts have construed that the sale of said immovable property was ordered without prejudice to Plaintiff's right to recover said property under Article 1412 and 1414 of Civil Code of Puerto Rico (31 LPRA, 3922 and 3924).

The sale order is not only in direct violation of cited Connecticut vs. Dohner, supra but also is in violation of Rule 51 of Rules of Civil Procedure (32 LPRA APP II R.51), for no judicial sale may be made prior to a judgment in the merits of the case. A judicial sale must be made in within public auction procedures of Rule 51.

G. STATEMENT OF CASE

The petition sought before this Honorable Court is filed to review an interlocutory order notified by the court of first instance (Puerto Rico Superior Court) and thereafter ratified by Circuit Court of Appeals of Puerto Rico, and finally, the Supreme Court of Puerto Rico.

Respondent Ernesto Alvarez Lazzarini and Lilliam Alvarez Lazzarini filed a complaint before the Superior Court of Puerto Rico claiming their share in the estate of their sister, the deceased Mrs. Delia Alvarez Lazzarini. The complaint was filed against the daughters of the deceased: Mrs. Nancy Lamadrid Alvarez and Teresa Lamadrid Alvarez. Both defendant answered the complaint and in after numerous interlocutory proceedings, in a status conference held before the trial court, (Puerto Rico Supreme Court), it was ordered that the only immovable property of the estate be assessed in its value according to the criteria in similar estate cases in Puerto Rico. Said value assessment is made as part of the inventory proceeding on estate cases, in order to know the real value and extent of all the property left by the deceased. At said point in time, no mention of judicial sale was expressed by any party in this case under Rule 51 of Rules of Ciovil Procedure.

On March 1996, Plaintiff Ernesto Alvarez Lazzarini, and Lilliam Alvarez Lazzarini filed a motion indicating that said Plaintiffs and codefendant Teresa Lamadrid Alvarez, were interested in selling the property to a third party. Said parties requested that the court ordered the sale of said immovable property to a tenant. Therefore, the trial court granted said petition without the expressed consent of

Nancy Lamadrid Alvarez. Moreover, no hearing was granted and said order was issued after only seven (7) days of the filing of said motion to sell.

Thereafter, lower court ordered, under extreme duress, that Nancy Lamadrid Alvarez sign a public deed whereby she agree to sell sale and transfer it to the mention tenant. However, Mrs. Nancy Lamadrid Alvarez consistently have refused to sign said deed and have always stated that she refuses to sell her property rights in condominium to said tenant. On the contrary, she has indicated that she is willing to purchase the entire property from the co-owners of the condominium under the priority rights as expressed in Articles 1412 and 1414 of the Civil Code of Puerto Rico. (31 LPRA, see 3922 and 3924).

Numerous motion were filed by Plaintiff in opposition of said sale as well as various orders were entered by the lower court regarding this matter, until said situation was initially appealed before the Circuit Court of Appeals of Puerto Rico in a writ of certiorari. After a reply on said petition was made, said Appellate Court entered an opinion and judgment, whereby the initial order for judicial sale was affirmed but with the condition that Mrs. Nancy Lamadrid Alvarez, could purchase the remaining condominium as part of her recovery rights (retract) under Articles 1412 and 1414 of Civil Code of Puerto Rico.

Petitioner in said appeal challenged the lower court order by not granting her a hearing and permitting a sale whereby she has never given her consent to both the lower court and/or the parties. She always had refused to sell her property right. This is particular important: To this

date, no final judgments has been entered regarding the final disposition of estate of deceased Delia Alvarez.

Again this same issued was presented and filed in a petition or writ of certiorari before the Supreme Court of Puerto Rico. In said subsequent petition its was stated that Petitioner's rights under the Due Process Clause were violate under the Connecticut vs. Dohner, supra, doctrine. This doctrine requires a hearing before any disposition of property be made. After all the arguments were received by opposing parties, the Supreme Court of Puerto Rico denied the writ of certiorari. However, one of its Justices stated that he would issue the writ. A motion for reconsideration was filed; the same was denied, again with the same result.

H. REASONS FOR GRANTING THE PETITION

Petitioner respectfully request from this Honorable Court the requested petition on two grounds:

a. Mrs. Nancy Lamadrid Alvarez's constitutional right have been violated by the lower court when she was ordered to sell an immovable property whereby she has not expressed her consent neither in writing or orally and when no judicial final disposition of the estale has been made. Petitioner has never consented to a sale especially when respondents have alleged erroneously that she has constructively expressed her consent. She was ordered to sign a deed otherwise she could be found in contempt by the lower court.

b. No hearing has been granted by the trial court whereby she could express in an equivocal manner her consent regarding the sale of said property. This right to a hearing regarding sale of a property is constitutionally protected, as expressed in Connecticut vs. Dohner, supra.

I. CONCLUSION

On the basis of this petition, it is respectfully requested that this Honorable Court grants the writ of certiorari and therefore, vacates not only the trial court's order regarding the sale of the immovable property as expressed herein, ut also the Circuit Court of Appeals Judgements and the Supreme Court of Puerto Rico's resolutions.

RESPECTFULLY SUBMITTED.

RAFAEL A. OLIVERAS LOPEZ DE VICTORIA

USDC-PR 119606

EDIF. ASOC. DE MAESTROS, SUITE 505

AVE. PONCE DE LEON #452

SAN JUAN, P.R. 00918

TELEFONO: (787) 764-3280

IN THE SUPREME COURT OF PUERTO RICO

Ernesto Alvarez Lazzarini	* No.CC-97-22
Lillian Alvarez Lazzarini	* CERTIORARI
Plaintiff-Appellee	*
	*
vs.	*
	*
Nancy Lamadrid Alvarez	*
	*
Defendant and Appellant	*
	*
Co-defendant	*
Teresa Lamadrid Alvarez	*
	*
Defendant-Appellant	*

****

RESOLUTION

In San Juan, Puerto Rico on March 25th of 1997.

As to the Motion for Reconsideration filed by petitioner Nancy Lamadrid Alvarez, it is thus Denied.

This was agreed upon by the Court, and certified by the Secretary General. Associate Judge Fuster Berlingeri would reconsider. Presiding Judge Andreu-García did not participate.

Signed by

_____

Francisco R. Agrait Lladó
Secretary General

SUPREME COURT OF PUERTO RICO

ERNESTO ALVAREZ LAZZARINI* CASE NO. CC-97-22
LILLIAN ALVAREZ LAZZARINI*
*
Plaintiff-Appellee *
*
Vs. *
*
NANCY LAMADRID ALVAREZ *
*
Defendant-Appellant *
*
TERESA LAMADRID ALVAREZ *
*
Defendant-Appellee *
****

MOTION REQUESTING RECONSIDERATION

ATT. EMILIO A. MONTAÑEZ DELERME,
P.O. BOX 6645
SAN JUAN, PUERTO RICO 00914-6645;
ATT. HECTOR A. COLÓN CRUZ,
P.O. BOX 13282,
SAN JUAN, PUERTO RICO 00908;
ATT. LYDIA RIVERA MATOS
JUSTICE DEPT.
P.O. BOX 902192
SAN JUAN, PUERTO RICO 00902
RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA

SUPREME COURT OF PUERTO RICO

ERNESTO ALVAREZ LAZZARINA* CASE NO. CC97-22
LILLIAN ALVAREZ LAZZARINI*
*
Plaintiff-Appellee *
*
Vs. *
*
NANCY LAMADRID ALVAREZ*
*
Defendant-Appellant *
*
TERESA LAMADRID ALVAREZ*
*
Defendant-Appellee *
****

MOTION REQUESTING RECONSIDERATION

TO THE HONORABLE SUPREME COURT:

COMES NOW the defendant-appellant Nancy Lamadrid Alvarez through her undersigned legal representative, who respectfully alleges and prays:

1. Co-defendant Nancy Lamadrid Alvarez, respectfully requests that this Honorable Court reconsider its Resolution in this case, in which it determines not to issue the requested Writ of Certiorari.

2. We respectfully request this reconsideration for the following reasons:

   A. The Trial Court has breached with impunity a constitutional right, by not even scheduling a mandatory hearing for the sale of real property, in which the parties have been unable to reach an agreement as far as their respective shares and/or validity within same.

   B. Furthermore, said order violates due process of law, because it allows a third party leaseholder, José Benítez -who has no standing in this case- to intervene by means of another party therein.

   C. We respectfully understand that the instant matter is an extremely serious one, since the defendants assuring their participation in the joint ownership sale which was unlawfully ordered, filed a complaint before the U. S. District Court for the District of Puerto Rico.

We once again insist that the Trial Court unlawfully ordered co-defendant Nancy Lamadrid Alvarez, without her consent, to a hearing relating to her participatory share of the real property object of this litigation. All this was carried out even without a pronouncement of dispositional judgement as to the subsequent disposal of the common shares belonging to each party at the Federal District Court, to thereby exercise their constitutional rights therein.

At this time said Federal District Court has dismissed the case, but due to its uniqueness, an appeal has been filed to the United States Court of Appeals for the First Circuit

in Boston. (See Attachments A, B, and C).

D. Although we are of the opinion that in general, tardiness of notice is a jurisdictional violation, we would respectfully wish to indicate that said breach was the result of an abnormal event that took place in Puerto Rico on the very same date in which the writ was filed.

This very same court was also a victim of the general blackout which took place on January 16th of 1997. Said event resulted in notice not being filed until the following day. Respectfully, said delay - prompted by an isolated event independent of either party - was not prejudicial to neither of the other parties in this litigation, since it was received by those parties the next immediate working day, that is January 21st if 1997, (on January 20th of 1997 the Federal government celebrates Dr. Martin Luther King Jr.'s birthday).

It is our understanding that the errors and/or controversies stated under law are extremely transcendental, therefore we pray for reconsideration of the initial decision, and in turn ask for issuance of a writ of Certiorari.

RESPECTFULLY SUBMITTED.

I CERTIFY: To have sent a copy of the foregoing document to:

Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, Puerto Rico 00908; Att. Lydia Rivera Matos, Dept. of Justice, Box 902192, San Juan, Puerto Rico 00902.

6pa

In San Juan, Puerto Rico on February 26th of 1997.

Rafael A. Oliveras López de Victoria
422 Agueybana St.,
Hato Rey, P.R. 00918
Telephone: 764-3280
Bar: #5588

----------LEASE CONTRACT----------

-----In San Juan, Puerto Rico on August 22nd of nineteen hundred and eighty eight (1988).----------

----------APPEAR----------

ON ONE PART: DELIA ESTHER ALVAREZ, Widow LAMADRID, appearing in self representation and as administrative executrix for the Estate of José Lamadrid Capó; of legal age, a widow, property holder and a resident of Santurce, Puerto Rico, hereinafter named "THE LESSOR".----------

ON THE OTHER PART: JOSE BENÍTEZ MARTÍNEZ and LILLIANA BERRIOS GUTIÉRREZ, married to one another, property holders and residents of Carolina, Puerto Rico, henceforth called "THE LESSEES".----------

----------S T A T E----------

-----FIRST: The LESSOR is the absolute owner of a commercial spot identified under #2 of the ground level at #1818 Loíza Street, in Santurce, Puerto Rico.----------

-----SECOND: That said locale consists of a rectangular space of approximately 1,431 square feet, with electrical, water and sewer facilities.----------

-----THIRD: TERM - The LESSOR grants and conveys the above stated property for a term of five (5) years commencing on September 1st of 1988, further providing that once said term expires, the contract can be renewed for a similar and additional five (5) year term, under the stipulations and conditions that the parties agree upon and/or might agree upon later on.----------

-----FOURTH: Rescissory Clause-It is further provided that the LESSORS can request that the contract be rescinded or annulled prior to the term date, without any penalty whatsoever - if any situation that so warrants it were to take place -through written notice served within the preceding thirty (30) days; further being disposed that upon said eventuality, the LESSEES shall deliver the locale in proper conditions and ready for lease at the end of said term.----------

-----FIFTH: Rental Rates - The rental rate shall be Four Hundred and Fifty ($450.00) Dollars per month during the first year, and Five Hundred ($500.00) Dollars per month starting September 1st of 1989 and for four (4) consecutive years, until the fifth year of said term; then Six Hundred and Twenty Five ($625.00) Dollars per month as of September 1st of 1993, and from there forward subject to the agreement between the parties for any subsequent years.----------

-----Said rates shall be paid monthly, in advance, between the first (1) and the fifth (5) day of each month, but no later than the tenth (10) day of each month.----------

----SIXTH: Use of the Property - The site object of this contract shall be solely destined to be used as an establishment for the wholesale and retail sale of hardware store items, and any other products relating to said type of commercial activity.----------

-----SEVENTH: Payment of Insurance and Utilities - Payment of water, telephone and electrical services will be on the account of the LESSEES. Furthermore the LESSEES shall obtain and keep in force, public liability insurance in accordance with the type of business to be operated.----------

-----EIGHTH: The LESSEES shall not alter the form, structure or stability of any part of the site object of this contract, which shall be returned in the same structural condition and stability upon termination of the lease, as it is at this time.----------

-----NINTH: Improvements - The LESSEES shall be able to carry out any improvement necessary for the purpose of adapting and habilitating in the locale for its destined purpose; said expenses shall be on their own account, further committing themselves to care for said property with due care afforded by reasonable and prudent persons. Said improvements are limited to what is indicated within paragraph EIGHT, also indicated that upon termination of the contract the LEASEHOLDER shall deliver the immovable property in good condition, excepting for normal and standard deterioration due to use. Upon termination of the contract the LEASEHOLDERS can remove all movable improvements made to the location. Those that they can not or do not wish to remove, shall remain as property of the LANDLORD, without any cost accruing upon them.--------

-----TENTH: Major and Necessary Repairs - Major or necessary structural repairs shall be on account of the LANDLORD, who promises that the LEASEHOLDERS will have full enjoyment of the leased immovable property. For said purposes the LANDLORD and/or their authorized agents shall be able to visit the rented property - giving prior notice within reasonable times and dates - for the purpose of making necessary structural for maintenance and security of same.----------

-----ELEVENTH: Necessary Minor Repairs - The costs for

necessary minor repairs that appear as a result of normal use and deterioration shall be on the account of the LEASEHOLDERS.----------

-----TWELFTH: THE LEASEHOLDERS cannot sublease or cede all or part of the immovable property, nor use it for other different purposes, without first obtaining written consent from the LANDLORD.----------

-----THIRTEENTH: Deposit - the LEASEHOLDERS shall post a deposit equal to one (1) month's rent, or Four Hundred and Fifty Dollars ($450.00) which cannot be used as a month's rent for arrears or as last month upon termination of the contract, but rather to respond for any existing damages resultant from any negligence by the LEASEHOLDERS thereby the LANDLORD is committed - upon termination of the contract - to immediately proceed to inspect the property and return said sum without undue delay, once the conditions of said unmovable property are to his satisfaction.----------

-----FOURTEENTH: If in the future the LEASEHOLDERS were to contemplate the idea of selling the establishment to a third party, they may so do, after giving written notice to the LANDLORD, if and when it relates to the same type of commercial activity. Nevertheless, the lease agreement will only be subject to what has been agreed to by the LANDLORD and the PURCHASER; the LANDLORD reserves the right to arrange a different lease rate for said purchaser than those agreed to herein with the LEASEHOLDER.----------

-----FIFTEENTH:If in the future the LANDLORD were to contemplate selling the site or building where same is lo-

cated, he shall give notice of his intention to the LEASEHOLDERS, in case they have an interest in purchasing said immovable property. If this were the case and no agreement is reached, he shall insure that any sale to a third party includes an acknowledgment and acceptance of the current lease by the purchaser, for the term and duration of same.-

-----The herein appearing parties accept the present document since its terms and conditions in accordance to what is agreed.----------

-----THUS they recognize and sign the present document in San Juan, Puerto Rico this 22nd day of August of 1988.-----

_____ _____

(signed) (signed)

In SAN JUAN, PUERTO RICO THIS 10Th. OF FEBRUARY 1997.

FRANCISCO R. AGRAIT LLADÓ

SECRETARY GENERAL

----------(signed)--------

ASSISTANT SECRETARY

THE UNITED STATES FEDERAL DISTRICT COURT FOR THE DISTRIC OF PUERTO RICO

NANCY LAMADRID ALVAREZ	*	CIVIL NO.
	*	97-1063 HL
Plaintiff	*	
Vs.	*	
GILBERTO FIGUEROA	*	
MARSHALL SUPERIOR	*	
COURT, TRIAL COURT	*	**INJUNCTION**
OF PUERTO RICO	*	**MANDAMUS**
WILFREDO ALICEA	*	
TRIAL COURT OF	*	
COMMONWEALTH	*	
OF PUERTO RICO	*	
	*	
Defendant	*	

****

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW the plaintiff, through her under-signing attorney, and respectfully states and prays as follows:

I. THE PARTIES

1. That plaintiff is a resident of San Juan, Puerto Rico.

2. That co-defendant **Gilberto Figueroa,** Marshall of Trial Court of Puerto Rico, Superior Court of San Juan and a judiciary officer of the Commonwealth of Puerto Rico. (Tribunal de Primera Instancia, Sala Superior de San Juan).

3. That Co-defendant **Wilfredo Figueroa,** is a Superior Court Judge, Trial Court of Puerto Rico, and a judiciary officer of the Commonwealth of Puerto Rico. Both officers are acting under the authority granted by both the Constitution of the Commonwealth of Puerto Rico and the United States Constitution.

II. JURISDICTION

4. Plaintiff respectfully invokes the United States Constitution, specifically the Fifth and Fourteenth Amendment of said Constitution, for the flagrant violation of her civil rights in a cause of action before the Trial Court of Puerto Rico, Superior Court of San Juan, in the case number KAC-95-1036.

III. MAIN FACTS

5. Plaintiff Nancy Lamadrid Alvarez is a co-owner in condominium of a bulding located at Loíza Street, Santurce, Puerto Rico. She co-owns with her sister Teresa Lamadrid Alvarez, and allegedly with Ernesto Alvarez Lazzarini and Lillian Alvarez Lazzarini.

6. Parents of Nancy Lamadrid Alvarez and Teresa Lamadrid Alvarez were José Lamadrid Capó, who

died on June 1, 1987, and Delia Alvarez Lazzarini, who died on March 30, 1994.

7. At the death of José Lamadrid Capó, various properties were left to both sisters and surviving spouse. Upon liquidiation of the estate of José Lamadrid Capó, Nancy Lamadrid Alvarez was granted a condominium participation of approximately 10% of the building located at Loíza Street, Santurce, P.R.

8. Thereafter, when her mother Delia Alvarez Lamadrid died, latter and additional participation was given to both Teresa Lamadrid Alvarez and Delia (sic.) Lamadrid Alvarez.

9. A complaint was filed by the brothers and sister of the deceased Delia Alvarez Lazzarini to claim their share as co-heirs in the will suscribed by the deceased Delia Alvarez Lazzarini. This case was filed under case number KAC-95-1036 at the Superior Court of San Juan.

10. Presiding over said case is co-defendant Wilfredo Alicea.

11. After various procedural considerations in said case, on December 10, 1995, the Superior Court ordered that the immovable be appraised by an expert in order to know the actual value of said property in accordance with inheritance case law.

12. On March 7, 1996, attorney Emilio Montañez Delerme notified the Court that a tenant of the inmovable property was interested in buying

said property. This was solved in a record time of seven (7)(sic.) thereby orders the sales of the property without any time for co-defendant Nancy Lamadrid Alvarez to respond.

13. That on April 1996, Plaintiff Nancy Lamadrid Alvarez stated that she was not interested in selling her share of the inmovable property.

14. Without any hearing or expressed consent by Plaintiff, the court orders that said property was sold to tenant, José Benítez.

15. The Superior Court issued said order without taking into consideration plaintiff's constitutional rights to dispose of said property.

16. It was the contention of said Superior Court that Plaintiff Nancy Lamadrid Alvarez, as well as her mother Delia Alvarez Lazzarini, suscribed a lease contract whereby it granted the tenant an option to buy said inmovable property. Stated clause number fifteen (15) states the following:

See exhibit - A.

"FIFTEEN: **Should the landlord in the future consider puttin (sic.) up for sale the space or building where same is located, will inform such intention to the lessee to find out if they would be interested in purchasing the real estate. Should this be the case and an agreement is not reached, should the sale be then to a third party, the lessor will make every attempt possible to include ackowledgement and acceptance of the existing lessee agreement by the purchaser, and for the term of existence**

of same".

17. The other parties to the inheritance case (civil case no. KAC 95-1036), namely Teresa Lamadrid Alvarez (co-defendant), and Ernesto Alvarez Lazzarini y (sic.) Lillian Alvarez Lazzarini (Plaintiff), have manifested to Superior Court that said clause constitutes and option and through clever manipulation of the facts and the filing of numerous motions - none proper and credible - have induced in grave and manifest error to Honorable Wilfredo Alicea, Superior Court Judge.

18. Said magistrate ordered the selling of said property without taking into consideration the following:

    a. The final solution to the inheritance case, to this date, is still pending. The distribution of the will was questioned on both constitutional and civil grounds (duress). To this date no trial has been held.

    b. Two of the presumed sellers only have a conditional right; for their right is being challenged in said inheritance case. They can not sell something which they do not own.

    c. Furthermore, Teresa Lamadrid Alvarez, Ernesto Alvarez Lazzaaarini and Lillian Alvarez Lazzarini erroneously have stated there is an option to sell in favor of tenant José Benítez Martínez; when in reality none exists.

    d. Moreover, Nancy Lamadrid Alvarez was given a private document entitled option to sell,

whereby she was ask (sic.) to sign. Said document was never signed by Nancy Lamadrid Alvarez;

e. That Nancy Lamadrid Alvarez never expressed directly or indirectly her intention to sell her participation in the inmovable property to an outsider, specifically José Benítez.

f. That Nancy Lamadrid Alvarez was never called before the Superior Court in a dispositive hearing to state her consent; no formal hearing was set, whereby Plaintiff could appear in person and state her consent. This is contrary to case law in Connecticut vs. Doehr, No. 90-143, Supreme Court's opinion of June 6, 1991, 59 LW 11587.

REMEDIES SOUGHT

Due to the express violation of Plaintiff's Amendments, in the illegal selling of of Plaintiff's share in the inmovable property in question, the following remedies are sought:

a. An injunctive order be issued by this Honorable Court whereby it declares null and void the order or orders regarding the sale of said inmovable property to José Benítez.

b. A Writ of Mandamus be issued whereby defendants are instructed to comply with the Fifth and Fourteenth Amendment of the Courts of the United States of America, specifi-

cally the constitutional doctrine stated in Connecticut vs. Doehr, Supra.

PRAYER

In light of the above, it is respectfully requested that this Honorable Court entertain this complaint and grant the remedies hereby petitioned.

RESPECTFULLY REQUESTED

In San Juan, Puerto Rico at January 17, 1997.

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA

422 AGUEYBANA STREET

HATO REY, P.R.

USDC - 119606

TELEPHONE: (787) 764-3280

----------LEASE CONTRACT----------

-----In San Juan, Puerto Rico on August 22nd of nineteen hundred and eighty eight (1988).----------

----------APPEAR----------

ON ONE PART: DELIA ESTHER ALVAREZ, Widow LAMADRID, appearing in self representation and as administrative executrix for the Estate of José Lamadrid Capó; of legal age, a widow, property holder and a resident of Santurce, Puerto Rico, hereinafter named "THE LESSOR".-

ON THE OTHER PART: JOSE BENÍTEZ MARTÍNEZ and LILLIANA BERRIOS GUTIÉRREZ, married to one another, property holders and residents of Carolina, Puerto Rico, henceforth called "THE LESSEES".----------

----------S T A T E----------

-----FIRST: The LESSOR is the absolute owner of a commercial spot identified under #2 of the ground level at #1818 Loíza Street, in Santurce, Puerto Rico.----------

-----SECOND: That said locale consists of a rectangular space of approximately 1,431 square feet, with electrical, water and sewer facilities.----------

-----THIRD: TERM - The LESSOR grants and conveys the above stated property for a term of five (5) years commencing on September 1st of 1988, further providing that once said term expires, the contract can be renewed for a similar and additional five (5) year term, under the stipulations and conditions that the parties agree upon and/or might agree upon later on.----------

-----FOURTH: Rescissory Clause-It is further provided that the LESSORS can request that the contract be rescinded or annulled prior to the term date, without any penalty whatsoever - if any situation that so warrants it were to take place -through written notice served within the preceding thirty (30) days; further being disposed that upon said eventuality, the LESSEES shall deliver the locale in proper conditions and ready for lease at the end of said term. (See Exhibit A of Complaint)----------

-----FIFTH: Rental Rates - The rental rate shall be Four Hundred and Fifty ($450.00) Dollars per month during the first year, and Five Hundred ($500.00) Dollars per month starting September 1st of 1989 and for four (4) consecutive years, until the fifth year of said term; then Six Hundred and Twenty Five ($625.00) Dollars per month as of September 1st of 1993, and from there forward subject to the agreement between the parties for any subsequent years.---------

-----Said rates shall be paid monthly, in advance, between the first (1) and the fifth (5) day of each month, but no later than the tenth (10) day of each month.----------

----SIXTH: Use of the Property - The site object of this contract shall be solely destined to be used as an establishment for the wholesale and retail sale of hardware store items, and any other products relating to said type of commercial activity.----------

-----SEVENTH: Payment of Insurance and Utilities - Payment of water, telephone and electrical services will be on the account of the LESSEES. Furthermore the LESSEES shall obtain and keep in force, public liability insurance in accordance with the type of business to be operated.----------

-----EIGHTH: The LESSEES shall not alter the form, structure or stability of any part of the site object of this contract, which shall be returned in the same structural condition and stability upon termination of the lease, as it is at this time.----------

-----NINTH: Improvements - The LESSEES shall be able to carry out any improvement necessary for the purpose of adapting and habilitating in the locale for its destined purpose; said expenses shall be on their own account, further committing themselves to care for said property with due care afforded by reasonable and prudent persons. Said improvements are limited to what is indicated within paragraph EIGHT, also indicated that upon termination of the contract the LEASEHOLDER shall deliver the immovable property in good condition, excepting for normal and standard deterioration due to use. Upon termination of the contract the LEASEHOLDERS can remove all movable improvements made to the location. Those that they can not or do not wish to remove, shall remain as property of the LANDLORD, without any cost accruing upon them.---------

-----TENTH: Major and Necessary Repairs - Major or necessary structural repairs shall be on account of the LANDLORD, who promises that the LEASEHOLDERS will have full enjoyment of the leased immovable property. For said purposes the LANDLORD and/or their authorized agents shall be able to visit the rented property - giving prior notice within reasonable times and dates - for the purpose of making necessary structural for maintenance and security of same.----------

-----ELEVENTH: Necessary Minor Repairs - The costs for necessary minor repairs that appear as a result of normal

use and deterioration shall be on the account of the LEASEHOLDERS.----------

-----TWELFTH: THE LEASEHOLDERS cannot sublease or cede all or part of the immovable property, nor use it for other different purposes, without first obtaining written consent from the LANDLORD.----------

-----THIRTEENTH: Deposit - the LEASEHOLDERS shall post a deposit equal to one (1) month's rent, or Four Hundred and Fifty Dollars ($450.00) which cannot be used as a month's rent for arrears or as last month upon termination of the contract, but rather to respond for any existing damages resultant from any negligence by the LEASEHOLDERS thereby the LANDLORD is committed - upon termination of the contract - to immediately proceed to inspect the property and return said sum without undue delay, once the conditions of said unmovable property are to his satisfaction.----------

-----FOURTEENTH: If in the future the LEASEHOLDERS were to contemplate the idea of selling the establishment to a third party, they may so do, after giving written notice to the LANDLORD, if and when it relates to the same type of commercial activity. Nevertheless, the lease agreement will only be subject to what has been agreed to by the LANDLORD and the PURCHASER; the LANDLORD reserves the right to arrange a different lease rate for said purchaser than those agreed to herein with the LEASEHOLDER.----------

----FIFTEENTH: If in the future the LANDLORD were to contemplate selling the site or building where same is located, he shall give notice of his intention to the LEASEHOLDERS, in case they have an interest in purchasing said

immovable property. If this were the case and no agreement is reached, he shall insure that any sale to a third party includes an acknowledgment and acceptance of the current lease by the purchaser, for the term and duration of same.-----The herein appearing parties accept the present document since its terms and conditions in accordance to what is agreed.----------

-----THUS they recognize and sign the present document in San Juan, Puerto Rico this 22nd day of August of 1988.-----

(signed) (signed)

José Benítez Martínez Lilliana Berríos Gutiérrez

LEASEHOLDERS

(signed)

Delia Esther Alvarez Widow

of Lamadrid and the Estate of

José Lamadrid Capó

THE UNITED STATES
FEDERAL OF DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NANCY LAMADRID ALVAREZ*	CIVIL NUM. _____
Plaintiff's	*
Vs.	*
GILBERTO FIGUEROA	*
MARSHALL SUPERIOR	*
COURT, TRIAL COURT	*
OF PUERTO RICO,	*
COMMONWEALTH	*
OF PUERTO RICO	*
Defendant	*

****

SWORN STATEMENT

I, NANCY LAMADRID ALVAREZ, of legal age, married with Juan Bonini, propietor and resident of San Juan, Puerto Rico, declare under oath:

1. That above personal circumstances are true and correct.
2. That I have ordered my attorney to file a complaint against Gilberto Figueroa, Marshall and Wilfredo

Alicea, Superior Court trial judge.

3. That I have been the victim of a civil right violations protected under the Fifth and Fourtheen Amendment in accordance with Connecticut vs. Dohner, Supra.

4. That I have read the complaint and all the goverments in said complaint are true and correct.

5. That said complaint is file due to right violations and the injustice committed against me.

At San Juan, Puerto Rico, this day 16th. of January, 1997.

NANCY LAMADRID ALVAREZ

AFFIDAVIT: 606

SWORN AND SUBSCRIBED before me by NANCY LAMADRID ALVAREZ known to me personally this day 16 January at San Juan, Puerto Rico.

(Signed)

Sheila Acevedo

NOTARY PUBLIC

UNITED STATES DISTRICT COURT.

FOR THE DISTRICT OF PUERTO RICO

NANCY LAMADRID ALVAREZ

V. CASE NUMBER:

GILBERTO FIGUEROA ET. AL. 97-1063 (HL)

MOTION

Date Filed: 1-17-97

Docket #3 [X] Plaintiff [ ] Defendant

Motion: MOTION REQUESTING INJUNCTION REMEDY

ORDER

Plaintiff requests a preliminary injunction against the Marshal of the Trial Court of Puerto Rico, Gilberto Figueroa, and a Superior Court Judge of the Trial Court of Puerto Rico, the Honorable Wilfredo Alicea. Plaintiff seeks to enjoin the Marshal from executing Judge Wilfredo Alicea's order to sell property partially owned by plaintiff to a tenant, José Benítez, arising out of a civil inheritance dispute. Plaintiff asserts that Judge Alicea erred because (1) he did not hold a hearing and, thereby, denied Plaintiff the right to be heard and (2) he misread a contract to lease the property. As a result, Plaintiff alleges that if the Marshal follows Judge Alicea's order his Fifth and Fourteenth Amendment rights will be violated. Plaintiff has lost his initial appeal to the Puerto Rico Supreme Court.

Normally, in a case requesting a Rule 65 preliminary injunction, the Court would wait for (a) Plaintiff to serve a summons and a copy of the complaint upon Defendants, (b) Defendants to answer or otherwise plead, and (c) possibly schedule an oral preliminary injunction hear in before ruling upon merits of Plaintiff's claims. In a rare case such as this, however, this procedure is unnecessary.

An independent and thorough evaluation of Plaintiff's claims leads to the lucid conclusion that the Court lacks subject-matter jurisdiction over the complaint. Plaintiff is not challenging a Puerto Rico judicial process or procedure which would necessitate the likely determination that the Court should abstain from the matter under the Younger abstention doctrine. Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 1016 (1987). Rather, Plaintiff is appealing a final state court order in a civil judicial proceeding. Federal district courts lack subject-matter jurisdiction to hear such appeals. District Court of Columbia Court Appeals v. Feldman, 460 U.S. 462, 483-86 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413 415 (1923); Lancellotti v. Fay, 909 F.2nd 15, 17 (1st Cir. 1990).

Accordingly, because the Court lacks subject-matter jurisdiction over the complaint, the Court hereby dismisses Plaintiff's complaint with prejudice, without costs and attorneys' fees. Judgment shall be entered accordingly. After a final determination is rendered by the Puerto Rico Supreme Court, Plaintiff is free, of course, to seek review of the decision in the United States Supreme Court. 28 U.S.C. s 1257 (1996).

JUDGMENT

The Court having issued an Order on this same date, judgment is hereby entered dismissing Plaintiff's complaint with prejudice, without costs and attorneys' fees.

Date 1-27-97 [ ] U.S. District Judge)

Hector M. Laffitte

(Signed)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NANCY LAMADRID ALVAREZ	*	CIVIL NUM. 97-1063
Plaintiff's	*	
Vs.	*	
GILBERTO FIGUEROA,	*	
MARSHALL SUPERIOR COURT,	*	INJUCTION,
TRIAL COURT OF PUERTO	*	MANDAMUS
RICO WILFREDO ALICEA,	*	
TRIAL COURT OF PUERTO	*	
RICO COMMONWEALTH	*	
OF PUERTO RICO	*	
Defendant	*	

****

NOTICE OF APPEAL

Notice is hereby given that nancy Lamadrid Alvarez, plintiff in the above captioned case, hereby appeal to the United States Court of appeal for the First Circuit from the the Judgement entered in this act on January 21, 1997, entered on docket on January 23, 1997 dismissing plaitiff's case against Gilberto Figueroa, Marshall Superior Court of Puerto Rico; Wilfredo Alicea, Judge of Trial Court of Puerto Rico, Commonwealth of Puerto Rico.

RESPECTFULLY SUBMITTED.
In San Juan, Puerto Rico, this 8 day of February, 1997.
Rafael Oliveras Lopez de Victoria
Calle Agueybaná 422, Hato Rey, PR
USCD-PR 119606
Telephone: (787) 764-3280

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
SUPREME COURT

ALVAREZ LAZZARINI, ERNESTO	* CIR. CASE:
	* KLCE9600965
APPELLEE	* CASE: CC-97-0022
VS.	* ORIG. CASE: CC-97-
	* 0022
LAMADRID ALVAREZ, NANCY	* CIVIL ACTION
APPELLANT	* CRIME OR CIVIL
**********	ACTION

OLIVERAS LOPEZ DE VICTORIA, R.A.
422 AGUEYBANA ST.
HATO REY, PUERTO RICO 00918

NOTICE

I CERTIFY THAT THE COURT ISSUED THE ATTACHED RESOLUTION IN RELATION TO THE WRIT OF CERTIORARI.
COLON CRUZ, HECTOR-A-864 ASHFORD AVENUE-APT. 507-FLAMBOYAN APARTMENTS, SANTURCE, PR.
MONTAÑEZ DELERME, EMILIO - A- BOX 6645, LOIZA STA., SANTURCE, PR.
RIVERA MATOS, LYDIA - BOX 902192 - SAN JUAN, PR 00902.

IN THE SUPREME COURT OF PUERTO RICO

Ernesto Alvarez Lazzarini Lillian Alvarez lazarrini	*	
Plaintiff-Appellee	*	No. CC-97-22 Certiorari
Vs.	*	
Nancy Lamadrid Alvarez	*	
Appellant-Co-defendant	*	
Teresa Lamadrid Alvarez Appellee-Co-defendant	*	

****

RESOLUTION

In San Juan, Puerto Rico on February 7th. of 1997.

The above Writ for Certiorari is denied.

Agreed to by the Court and certified by the Secretary General. Associate Judge Mrs. Naveira de Rodón and Associate Judge Mr. Corrada del Río concur due to late notice. Associate Judge Fuster Berlingeri will issue. Presiding Judge Mr. Andreu García did not intervene.

Signed
Francisco Agrait Lladó

Secretary General

IN THE SUPREME COURT OF PUERTO RICO

Ernesto Alvarez Lazzarini	*	
Lillian Alvarez lazarrini	*	
	*	
Plaintiff-Appellee	*	No. CC-97-22 Certiorari
	*	
Vs.	*	
	*	
Nancy Lamadrid Alvarez	*	
	*	
Appellant-Co-defendant	*	
	*	
Teresa Lamadrid Alvarez	*	
Appellee-Co-defendant	*	

****

PETITION FOR WRIT OF CERTIORARI

LIC. EMILIO A. MONTAÑEZ DELERME
P.O. BOX 6645,
SAN JUAN, PUERTO RICO 00914-6645
LIC. HECTOR A. COLON CRUZ
P.O. BOX 13282
SAN JUAN, PUERTO RICO, 00908
LIC. LYDIA RIVERA MATOS
DPT. OF JUSTICE
P.O. BOX 902192
SAN JUAN, PUERTO RICO, 00902

RAFAEL OLIVERAS LOPEZ DE VICTORIA
CALLE AGUEYBANA 422
HATO REY, PR 00918
TELEPHONE 787-764-3280
BAR# 5588

SUPREME COURT OF PUERTO RICO

ERNESTO ALVAREZ LAZZARINI LILLIAN ALVAREZ LAZZARINI	* CASE NO.
Plaintiff-Appellee	*
Vs.	*
NANCY LAMADRID ALVAREZ	*
Defendant-Appellant	*
TERESA LAMADRID ALVAREZ	*
Defendant-Appellee	*

****

REQUEST FOR WRIT OF CERTIORARI

TO THE HONORABLE COURT:

COMES NOW co-defendant and appellant herein Nancy Lamadrid who submits this here instated writ to this Honorable Court, requesting review of the order and resolutions from the Honorable Circuit Court of Appeals in case number KLCE9600965, before the above stated court.

JURISDICTION

We respectfully invoke the jurisdiction of this Honorable Court as to review the above quoted ruling and order

in accordance with Rule 53 of Civil Procedure, as well as the Rules for the Supreme Court of Puerto Rico, for a review of the order and resolution under reconsideration notified on December 17th of 1996. Attachments D and G.

PREVIOUS PROCEDURES

On date of December 17th of 1996, the Circuit Court of Appeals asserted itself as to our petition for certiorari filed in said forum, in a way modifying the laconic resolutions of the Trial Court.

STATEMENT OF FACTS

On date of March 30th of 1994, Mrs. Delia Alvarez Lazzarini passes away, and who at the time of her death leaves as universal heirs her two daughters Nancy and Teresa, both surnamed Lamadrid Alvarez. José Lamadrid Capó, husband of the deceased, had passed away on June 1st of 1987. Prior to her demise, Mrs. Delia Alvarez Lazzarini had drafted two Wills, one on date of December 22nd of 1980, and the other on date of March 30th of 1989. Attachments A and B of the petition before the Circuit Court of Appeals, marked as attachment A of the present writ.

In a preliminary testamentary meeting, the parties could not reach an agreement as to the testamentary disposition of the capital estate, filing of this right of action resulting therein, demanding the plaintiff party their inherited share of the freely disposable third therein. Plaintiffs are Ernesto and Lillian Alvarez Lazzarini, brothers of deceased party Delia Alvarez Lazzarini. **Attachment C** of the Appeal before the Circuit Court of Appeals.

Answer, as well as a counterclaim were filed in response to the filed suit, to which numerous defenses were thereby raised. One of these questions the validity of the Will itself through fraud or dolus, as well as discrimination by one sibling versus another. **Attachment D** of the Appeal before the Circuit Court of Appeals, marked as attachment A of the present writ.

As the procedures in the case unfold, plaintiffs Ernesto and Lillian Alvarez Lazzarini try to accelerate the disposition of the case and inform the Honorable Trial Court, **in chambers and outside the presence of defendant Nancy Lamadrid,** that José Benítez, leaseholder of the Lamadrid building which is located at 1818 Loíza Street in Santurce, P.R., wished to purchase same. Allegedly, all this in accordance with the lease contract between the deceased party and the leaseholder. **Attachments D and E** of the Appeal before the Circuit Court of Appeals, idem. This takes place on August 22nd of 1988.

In a motion filed before the Trial Court by plaintiffs Ernesto and Lillian Alvarez, it is requested that the herein appearing party Nancy Lamadrid be ordered to sign the deed of sale relating to the above stated building.

Defendant Nancy Lamadrid objects because of the fact that as a joint property-holder and heir of the deceased, she wishes to purchase and acquire the remainder of the common shares of the above stated property. This was informed by motion to the Honorable Court. **Attachments F and F2** of the Appeal before the Circuit Court of Appeals, idem.

Without carrying out an adjudicative hearing as to this matter of a forced sale and without the appearance of

optioning and leaseholding party José Benítez in the suit, the Trial Court orders the sale of said immovable property to said leaseholder. In view of said order, a reconsideration is then requested, but the Trial Court denies same, ordering co-defendant Nancy Lamadrid Alvarez to sigh the sales contract or otherwise the Marshal would sign the pertinent sales contract in her name. **Attachment G and H** of the Appeal before the Circuit Court of Appeals, idem.

In view of this unlawful juridical situation, in which a third party not privy to the suit intervenes on his own, without the Court's permission and without personally appearing therein, an appeal is filed before the Circuit Court of Appeals.

ESTABLISHMENT OF ERRORS AND/OR CONTROVERSIES

A. **First Error:**

Does there exist a defective consent whenever a Trial Court and a Circuit Court of Appeals ratifies - in gross manner and in violation of due process of law - an order for judicial sale of an immovable, without having the benefit of a dispositive hearing relating to the assets of the estate, which are under controversy, and furthermore, without the express consent of co-defedant **and appellant Nancy Lamadrid?**

B. Second Error:

Is it prejudicial error whenever a Trial Court, as well as a Circuit Court of Appeals orders a judicial sale of an asset, without carrying out a hearing relating to the re-

quested sale, in which the party compelled to sell can render their unequivocal consent in open court and while being tape recorded?

C. Third Error:

Does a Trial Court as well as a Circuit Court of Appeals incide in gross and manifest error, whenever they interpret a clause within a lease contract, understanding it to be an option to buy, when this is not so?

Due process of law has been violated with impunity in this case, when the Trial Court, and subsequently the Circuit Court of Appeals, order the judicial sale of an immovable without the express or implicit consent of co-defendant and appellant Nancy Lamadrid Alvarez, thereby violating constitutional norms indicated under Connecticut vs. Dohner, (No. 90-143); opinion dated June 6th of 1991, 59 LW 1587.

The Trial Court is induced by plaintiffs Ernesto Alvarez Lazzarini and Lillian Alvarez Lazzarini to make the grave mistake of selling an immovable asset to a third party (José Benítez), without Mrs. Nancy Lamadrid's consent.

First, they erroneously state to the Trial Court that Mr. José Benítez, tenant of the property in question, has an option to buy based upon the lease contract. Upon reading of same it is obvious that said option does not exist, what does exist is a mere advisement of purchase. See attachment, clause number fifteen (15) which is copied textually:

"-----**FIFTEENTH: If in the future the LANDLORD were to contemplate selling the site, or building where same is located, he shall give notice of his intentions to the LEASEHOLDERS, in case they have an interest in pur-**

chasing said immovable property. If this were the case and no agreement is reached, he shall insure that any sale to a third party includes an acknowledgments and acceptance of the current lease by the purchaser, for the term and duration of same".

Second, this intent having failed, then co-defendant party Teresa Lamadrid Alvarez and plaintiffs Ernesto Alvarez Lazzarini and Lillian Alvarez Lazzarini indicate to the Trial Court that they - through an option contract prepared in private - had granted the tenant an option to buy. This contract was signed by said parties, but Mrs. Nancy Lamadrid Alvarez did not appear for signature, and in turn repudiates it. The Trial Court then, upon the offering by said parties, orders the appearing party herein Mrs. Nancy Lamadrid Alvarez to render her consent - under penalty of contempt and/or sanctions - so as to sign the pertinent deed for option to buy. The here instated party does not appear, in turn indicating her intention to purchase.

In spite of her transparent opposition to said order, the Trial Court again compels co-defendant Nancy Lamadrid Alvarez, otherwise the Court's Marshal would proceed to sign for said party. See attachment H.

We respectfully understand that the stated order is completely void since it breaches the following legal precepts:

a. Mrs. Nancy Lamadrid Alvarez's consent has been completely infringed upon, reason for which Article 1213 of the Civil Code of Puerto Rico is invoked.

b. Due process of law was infringed when a hear-

ing was not ever carried out so that Mrs. Nancy Lamadrid Alvarez could give or provide her consent, fact which is contrary to Connecticut vs. Dohner, supra. We respectfully interpret that the Trial Court acted hastily and approved a transfer without an intervening consent, nor cause (price). Mrs. Nancy Lamadrid Alvarez was never made aware for how much said immovable was being sold for to José Benítez, nor her share thereof.

c. No judgement has been rendered on the merits of the case, reason for which no asset can be disposed of, since the allocation that has to be executed in cases of distribution of sharing from an estate, has not been complied with. We thus ask ourselves: Can a Trial Court order the sale of an asset through a "judicial sale", without the existence of a nonappealable judgement? See recent motion by appellees indicating a judicial sale. **Attachment H**.

Respectfully, it is our impression that they can not; in our judgement the Trial Court as well as the Circuit Court of Appeals incide into an error by creating a right which in this case is neither established within the current Civil Code of Puerto Rico, nor within the Rules for Civil Procedure of Puerto Rico. The only way in which an immovable can be sold through judicial sale, is established under the guidelines of Article 251 of the Code of Civil Procedure for Puerto Rico (32 LPRA 1132), and under Rule 51.8 of the Rules of Civil Procedure for Puerto Rico.

It is the herein appearing party's understanding that it is not possible that an order for judicial sale can be issued, when an established right has been violated with impunity, we repeat:

a. There is no tacit nor express consent, nor any cause (price) either;

b. There has been no sale in accordance to the case of Connecticut vs. Dohner, supra.

c. A right is established in this case which grossly violates existing law.

PRAYER

In view of the above, it is respectfully requested from this Honorable Court that it issue a Writ of Certiorari and that it void- since it is contrary to law - the Order pertaining to the alleged judicial sale.

CERTIFICATION

I CERTIFY: To have mailed a true and correct copy of the above stated document to: Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Héctor A. Colón, Box 13282, San Juan, Puerto Rico 00908. In San Juan, Puerto Rico this 16th of January of 1996.

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
422 AGUYEBANA STREET
HATO REY, P.R. 00918
TELEPHONE: 764-3280
BAR: # 5588

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COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	*	CASE NO.
LILLIAN ALVAREZ LAZZARINI	*	KLCE-9600965
	*	
Plaintiff'S-Appellants	*	
	*	
Vs.	*	
	*	
NANCY LAMADRID ALVAREZ	*	
TERESA LAMADRID ALVAREZ	*	
	*	
Defendants-Appellants	*	

****

REQUEST WRIT FOR CERTIORARI

ATT. EMILIO A. MONTAÑEZ DELERME,
P.O. BOX 6645
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ATT. HECTOR A. COLÓN CRUZ,
P.O. BOX 13282,
SAN JUAN, PUERTO RICO 00908;
SECRETARY OF JUSTICE
HONORABLE JUDGE PIERLUISI
and/or Att. LYDIA RIVERA MATOS
P.O. BOX 192
SAN JUAN, PUERTO RICO 00902
RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
AGUEYBANA ST. 422
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TELEPHONE: 764-3280
BAR: #5588

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IX. POINTS & AUTHORITIES QUOTED 9

A. Constitution of the United States of America.

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C. Civil Code of Puerto Rico, Article 1213, 31 PRLA 3391.

D. Puerto Rico Code of Civil Procedure, Article 251, 32, PRLA 1132

E. Rule 518 and Rule 53 of the Puerto Rico Rules of Civil Procedure.

F. Puerto Rico Supreme Court Regulations.

B. SUPREME COURT OF THE UNITED STATES

1. Connecticut vs. Dohner, No. 90-143, opinion dated June 6th 1991, 59 LN 11587.

COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	*	CASE NO.
LILLIAN ALVAREZ LAZZARINI	*	
	*	
Plaintiffs-Appellee	*	
	*	
Vs.	*	
	*	
NANCY LAMADRID ALVAREZ	*	
TERESA LAMADRID ALVAREZ	*	
	*	

****

REQUEST FOR WRIT OF CERTIORARI

TO THE HONORABLE COURT:

COMES NOW co-defendant Nancy Lamadrid Alvarez through her undersigning legal representative and very respectfully states, alleges and prays:

JURISDICTION

The jurisdiction of this Honorable Court in accordance with the Rules of Civil Procedure is invoked, specifically those rules concerning the issuance of a Writ of CERTIORARI, and the Regulations for this Honorable Court as well for the review of the Orders filed in this case on August

28th of of 1996, and the one dated September of 1996, whereby co-defendant Nancy Lamadrid Alvarez is ordered to perform an act against her will, and deprived of her due process of law. **Attachment G and H.**

STATEMENT OF FACTS

On March 30th of 1994, Mrs. Delia Alvarez Lazzarini passes away, who at the time of her death leaves her two daughters Nancy and Teresa, both surnamed Lamadrid Alvarez, as her universal heirs. The deceased party's husband, José Lamadrid Capó, had died on June 1st of 1987. Prior to her death, Mrs. Delia Alvarez Lazzarini had drafted two wills, one on December 22nd of 1980, and another on March 30th of 1989. **Attachment A and B.**

When during the first testamentary meeting the parties were unable to agree as to the dispositiont of the will, the present lawsuit is filed, and plaintiffs demand their participation of the freely disposable third. The plaintiffs are Ernesto and Lilliam Alvarez Lazzarini, bother and sister of the deceased, Delia Alvarez Lazzarini. **Attachment C.**

As the procedures in the case unfolded, plaintiffs Ernesto and Lillian Alvarez Lazzarini try to speed up the ultimate disposition of the major assets of the Estate, informing the Honorable Trial Court, in chambers and outsdide the presence of the defendant Nancy Lamadrid, that José Benítez, leaseholder of the Lamadrid Building located at 1818 Loíza Street, Santurce, P.R., wished to purchase same. Allegedly, all this was inaccordance with the lease contract suscribed between the decedent and the leaseholder.**Attachments D and E.** This takes place on August 22nd of 1988.

In a motion filed before the Trial Court by plaintiffs Ernesto and Lillian Alvarez, it is requested that the herein appearing party Nancy Lamadrid be ordered to sign the deed of sale pertaining to the above stated building.

Defendant Nancy Lamadrid objects because of the fact that as a joint property owner and heiress of the deceased, she wishes to purchase and acquire the remainder of the common shares of the above stated property. This was informed by motion, to the Honorable Court. **Attachment F and F2.**

Without carrying out an adjudicative hearing relating to this matter of a forced hearing and without the presence of leaseholder and optioning party José Benítez in said suit, the Trial Court then orders the sale of the above stated inmovable property to said leaseholder. In view of said order, reconsideration is then requested, but the Trial Court denies same, ordering co-defendant Nancy Lamadrid Alvarez to sign the sales contract, or otherwise the Marshall would would sign the pertinent sales deed in her name. **Attachment G and H.**

In view of this unlawful juridical situation, in which a third party alien to this litigation intervenes on his own without the Court's permission and without personally appearing therein, is that we respectfully then request that this Honorable Court review the determinations and/or orders of the Trial Court, since they are contrary to Law. We respectfully submit the following allegations and/or errors to the consideration of this Honorable Court:

ESTABLISHMENT OF ERRORS AND/OR CONTROVERSIES

A. FIRST ERROR:

Does the Trial Court lapse into an error by allowing a third party alien to the litigation, to intervene without the Court's and/or the parties permission, in a matter not relevant to the procedures to be resolved in same?

B. SECOND ERROR:

Did the Trial Court lapse into error by not scheduling an adjudicative hearing relating to a sale of an asset, without even requesting permission from one of the parties affected therein? Respectfully, we surmise that this major error violates due process of Law under **Connecticut vs. Dohner, infra.**

C. THIRD ERROR:

Did the Trial Court err upon determining that Mrs. Nancy Lamadrid Alvarez as well as the co-heirs are third parties? As of today, the property has not been sold to any third party, and the only offer to purchase has been given by Mrs. Nancy Lamadrid Alvarez, who is not a third party, in accordance to the lease contract.

D. FOURTH ERROR:

Did the Trial Court err upon determining that clause fifteen (15) of the lease contract is an option to buy? It is our understanding that stated clause is not an option for bargain and sale, since it does not even offer the most basic elements of an option. Nancy Lamadrid Alvarez' most fundamental rights as a heiress and joint property owner have not been regarded by the Honorable Trial Court, upon

allowing that third party José Benítez have priority over the rights of co-defendant Nancy Lamadrid Alvarez.

ARGUMENTATION

Adjudication of rights to a third party alien to the suit, in the manner and form in which he has brought to the attention of the Honorable Trial Court, resulting in a gross violation of due process of law. Consider this:

First, the stated third party (the leaseholder as indicated in our statement of facts) never appears neither as intervenor nor as a party. He only shows up at the Trial Court through one of the parties (the plaintiffs) who represent him, and solely through their attorney (Att. Emilio Montañez). This third party never files any intervening writ whatsoever in this matter. See Rules 1, 5, 6 of the Rules of Civil Procedure (32 LPRA, App. II 1, 5, & 6).

Second, and even more important, the Trial Court has before it a litigation about estate (inheritance), where it primarily has to determine, among other things, the trustworthiness and correctness of a Will opened on behalf of the parties. There exists no allegation whatsoever of those so allowed, in which the third party leaseholder (José Benítez) establishes a cause of action in this litigation. We cannot fathom how a third party leaseholder can allege any rights before the Trial Court. We respectfully affirm that the stated third party has no "standing" within those matters brought to the Honorable Trial Court's attention. Respectfully, the Trial Court does not have jurisdiction over the person of José Benítez, Sterzinger vs. Ramírez 1985, 116 DPR 762.

Third, more serious and perjudicial to the the party appearing herein, a formal hearing was never carried out,

in which co-defendant Nancy Lamadrid Alvarez gives her consent to sell her co-joint pro-indiviso property in a formal and unequivocal manner, to anyone whatsoever. Said knowledge, as we understand it, is reple-vinable. Respectfully, it is our understanding that both the United States Constitution as well as the Constitution of Puerto Rico guarantee due process of Law as far as the control, use and the alienation of any property that any persons owns or possesses. In the instant case, this Constitutional guarantee by the Supreme Court of the United States, Connecticut vs. Dohner No. 90-143, opinion dated June 6th of 1991, 59 LW 111587, is fully lacking therein, at the time in which said sale was transacted, and without having Mrs. Nancy Lamadrid Alvarez' provided her consent. Quite the opposite, Mrs. Nancy Lamadrid Alvarez does not want to sell her share; contrary to that, she wishes to purchase the undivided property through the use of her co-joint redemption right. Said sale would come from the co-heirs, in this case Nancy Lamadrid, and would not be a sale to a third party.

Fourth, co-defendant Nancy Lamadrid Alvarez believes that the Trial Court has committed a manifest error upon interpreting that the lease contract carries an option to purchase, as well as determining that a purchase and sale (option) to a third party existed. If we examine clause fifteen (15) in detail, we notice that same does not grant an exclusive option to leaseholder José Benítez. Quite the opposite, it indicates the following:

a. That the landlord will notify the leaseholder about any intention of sale to a third party;

b. That the landlord will reach an agreement at said time with the lease-holder relating to any type of sale;

c. It does not indicate any type of exclusivity clause for the leaseholder;

d. Neither does it indicate any sales price or payment term whatsoever;

e. Neither does it state a time deadline to carry out said purchase.

f. It does not provide the leaseholder any preference over any of the other co-joint owners who wish to purchase the joint pro-indiviso shares;

g. Much less, the clause does not provide a normal structure of a bargain and sales option contract;

h. Said clause is only operable in bargain and sales to third parties.

Fifth, we respectfully interpret that the Honorable Court did not take into consideration the request by co-defendant Nancy Lamadrid Alvarez, where she states her desire to purchase the property object of this litigation, in accordance with Article 1020 of the 1930 Civil Code of Puerto Rico, 31 LPRA 2886.

PRAYER

WHEREFORE, it is respectfully requested that this Honorable Court void the orders issued by said Honorable Court, since they are contrary to Law.

CERTIFICATION

I CERTIFY: To have mailed a true and correct copy of the above to: Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, Puerto Rico 00908; and to the Justice Secretary, Honorable Jorge Pierluisi, P.O. Box 192, San Juan, Puerto Rico 00902, through attorney Lydia Rivera Matos.

In San Juan, Puerto Rico this 26th of September of 1996.

(signed)

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
422 AGUEYBANA STREET
HATO REY, P.R. 00908
TELEPHONE: 764-3280

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COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO. KAC-95-1036
LILLIAN ALVAREZ LAZZARINI	*	
	*	
PLAINTIFFS	*	
	*	
VS.	*	SUBJ:
	*	
NANCY LAMADRID ALVAREZ	*	
TERESA LAMADRID ALVAREZ	*	SETTLEMENT OF INHERITANCE
	*	
DEFENDANTS	*	

****

COMPLAINT

TO THE HONORABLE COURT:

Comes now the plaintiffs represented by undersigned attorney, and very respectfully alleges and prays:

1. That the plaintiffs are brother and sister, and heirs to the freely disposable third from constituent DELIA ESTHER ALVAREZ LAZZARINI who passed away on March 30th 1994.

2. That co-defendants are the adoptive daughters of the constituent and testamentary heiresses of the legitimate and beneficial improvement thirds disposed under Law.

3. That at the time of death of constituent MRS. DELIA ESTHER ALVAREZ LAZZARINI, she possessed exclusive title to:

   a. An 85.3% share of the lot and 271 square meter three story concrete building therein, located at 1818 Loíza Street, Santurce, Puerto Rico. Property registration code number 18.041.041.232. 49.0.01.

Registered under page 86, volume 491 of Santurce North, estate 478, which appears under (name) José Lamadrid Capó.

   b. An 85.3% share of the cash within the Lamadrid Guesthouse account at Banco Vizcaya, account number 011-109003486.

   c. An 85.3% share of the cash within the Lamadrid Rental Property account at Banco Popular de PR, 015-0243-69.

   d. Cash within the Ideal account, Banco Popular de PR, account 015-770060.

   e. Personal property.

All of this property has an estimated value of over $300,000.00 dollars.

4. That constituent MRS. DELIA ESTHER ALVAREZ LAZZARINI issued a will opened on May 30th of 1989 in Isla Verde, Puerto Rico before Notary

Carmen Teresa Agudo Loubriel, which is registered under the Register for Powers of Attorney and Wills of the Supreme Court of Puerto Rico.

5. That no person was designated to the position of executor.

6. That since date of the death of constituent MR DELIA ESTHER ALVAREZ LAZZARINI, co-defendant NANCY LAMADRID, in an arbitrary manner and without the consent or authorization of the plaintiffs, has taken charge of the management, operation and exploitation of the inherited estate, without rendering accounts to them.

7. That co-defendant NANCY LAMADRID ALVAREZ has taken a stance of enmity against the plaintiffs, and no dialogue is possible relating to settlement of the assets.

8. That plaintiffs have tried to communicate with the defendant to promote a dialogue, and this has not been possible.

9. That plaintiffs have a marked interest in closing out the assets of the estate, since more than one year has elapsed since the death of the constituent, and the defendant has not shown any interest in resolving this situation.

WHEREFORE, it is very respectfully requested that this Honorable Court GRANT the complaint and consequently:

a. Appoint an appropriate person as judicial administrator.

b. Order the defendants to consign to the court the amounts for rents and/or all benefits produced by the assets of the constituent as of her death.

c. Present a monthly report to the plaintiff, as to income and expenses as of the date in which she takes possession of the assets.

d. That defendant be sanctioned with attorney fees and expenses.

e. That constituent's assets be liquidated.

f. That a rent be assigned to the immovable property and that it be ordered that the shares belonging to the plaintiff be placed under consignment of the Court, retroactive from the date of the constituent's death.

g. That liquidation of the assets left by constituent be ordered.

h. Any other remedy provided by Law.

In San Juan, Puerto Rico this 11th of August of 1995.

(signed)

EMILIO A.MONTAÑEZ DELERME
BAR # 6217 - P.O. BOX 6645
SAN JUAN, PR 00914-6645
Telephone: 727-3261
FAX: 728-5405

57pa

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO. KAC 95-1036
	*	
Plaintiff	*	SALA: 803
	*	SUBJ: LIQUIDATION OF
	*	INHERITED ASSETS
Vs.	*	
	*	
NANCY LAMADRID et. als.	*	
	*	
Defendants	*	
	*	

****

ANSWER TO COMPLAINT

TO THE HONORABLE COURT:

COMES NOW co-defendant Nancy Lamadrid Alvarez through her undersigned, and very respectfully states, alleges and prays:

1. It is rejected that they are heirs to the freely disposable third, infra.

2. It is accepted that the defendants are the daughters; the residuary is partially denied. It is understood that the allegation that defendants are adoptive children is improper, denigrating and contrary to Law.

3. Partially admitted, since the assets are subject to inventory.

4. Partially admitted, we deny that the Will is a valid one.

5. Denied, there was an executor, but he died subsequent to the Will.

6. Denied.

7. Denied.

8. It is denied; all communications were carried out cordially, between attorneys.

9. Totally denied.

AFFIRMATIVE DEFENSES

1. That the Will issued by constituent Mrs. Delia Esther Alvarez Lazzarini is null and void since it was performed under fraud and/or intimidation, see infra.

2. That Will issued by constituent is impertinent since it is contrary to Law, by adversely discriminating against co-defendant Nancy Lamadrid Alvarez, and by favoring plaintiffs and co-defendant Teresa Lamadrid Alvarez.

3. That in complaint filed there is no allegation whatsoever in relation to co-defendant Teresa Lamadrid Alvarez, who is heiress of constituent Mrs. Delia Esther Alvarez Lazzarini.

4. That the Will issued by the constituent was the re-

sult of a situation in which constituent Mrs. Delia Esther Alvarez Lazzarini was suffering at the time of the drafting of same, she was suffering from severe depression.

COUNTERCLAIM

1. That co-defendant is the daughter, just as is her sister Teresa Lamadrid Alvarez of deceased (party) Delia Esther Alvarez Lazzarini. (sic).

2. Both daughters, in accordance with current civil law.

3. Co-plaintiffs Lillian Alvarez Lazzarini (sic.) and Ernesto Alvarez Lazzarini (sic.) are brother and sister of deceased party Mrs. Delia Alvarez Lazzarini (sic.)

4. Attorney Carmen Teresa Agudo is the Notary for Will number_____ dated _____ and in which Mrs. Delia Alvarez Lazzarini as testatrix. She also appeared as attorney for co-plaintiffs Lillian Alvarez Lazzarini and Ernesto Alvarez Lazzarini.

5. Deceased party Delia Alvarez Lazzarini granted, in 1980, a Will before Notary Luis A. Pagán in the city of San Juan on date of 22nd of nineteen hundred and eighty. (See attachment A).

6. In 1988, deceased party Delia Alvarez Lazzarini suffered from a neoplastic condition of the colon. To saver her life, surgery was performed on November 7th of 1988. As a result of said condition, the deceased party starts to suffer a mental condition, from severe depression; both her physical and mental health begin to deteriorate rapidly. According to the

party appearing herein, the following begins to manifest itself in her:

a. Weight loss;

b. Anxiety;

c. Depression - was lamentable and cried in seclusion;

d. Could not remember things and had slow thought processes;

e. Had visible engrossment of her lower extremities;

f. Had no interest in performing her daily work chores;

g. She felt and/or was indeed constantly harassed by her brothers/ sisters, against her daughters;

h. Felt fearful about everything;

These conditions had been treated by several physicians, particularly by psychiatrists.

7. In the midst of the mental situation she was suffering, the deceased party is then taken by present heirs Rafael Alvarez, Lillian Alvarez and/or Ernesto Alvarez to the notaryship of attorney Carmen Teresa Agudo, so that she could grant a second testament to favor them in the freely disposable portion. (See copy). Said Will grants co-plaintiff the improvement third, completely in opposition to what had been re-

quested within the first Will. Obviously, the second Will voids the first Will, clearly prejudicing the here instated party.

8. In accordance to what has been indicated, it is requested that this Honorable Court resolve that the open Will issued by the deceased party on date of _____ before Notary Carmen Teresa Agudo, be declared null and void, under the following grounds:

   a. Deceased party's consent upon issuing said Will is completely flawed, since she was suffering from a severe mental condition, which in great measure hindered her form understanding the reasoning behind her own actions.

   b. Deceased party's consent was taken from her through deception or ruse, and in a deceitful manner.

   c. That the granting notary had the attorney for heiress Lillian Alvarez for many years. Said Notary did not possess the requisite objectivity needed to grant a Will to favor the heirs in such manner.

   d. That the issued Will violates the Constitution of the Commonwealth of Puerto Rico, further discriminating between one sibling versus another. We respectfully understand that articles 736 and 737 of the Civil Code which is linked and/or founded upon the Spanish Civil Code of the past century, has not been leveled with current constitutional dispositions, which clearly prohibit dis-

crimination of one sibling against another, not only as to surname, but also as to social standing and as to any estate assets bequeathed. See **Ocasio vs. Díaz.** We respectfully surmise that the equality clause, Article II, Section 6 of the Constitution of the Commonwealth of Puerto Rico. Said discrimination takes place in the presence of a public official upon which the State has conferred authority and rights to act as an officer for the State.

9. Upon her death, the decedent leaves behind the following properties:

   a. Lamadrid building and lot, at 1818 Loíza Street, Santurce, P.R.;

This building is appraised in the sum of $205,000.00, but the constituent had an 85.3% share in same;

   b. An 85.3% share of the remaining personal property estate residuals, left by the constituent upon her death.

10. The plaintiff is not interested in prolonged indivision; and therefore requests that the Will issued by the constituent be declared null and void. In turn, that her participation within the above stated assets be recognized as to a fifty per cent share of all the assets left by the constituent.

11. The plaintiff estimates her participatory rights of the residual assets to be in the sum of $103,415.69.

12. Therefore, after resolving the aspect as to the in-

validity of the Will, it is requested of this Honorable Court that, in accordance to Law, it carry out an inventory upon the existing assets, that same be evaluated, pertinent apportionment be performed, and ultimately that same be liquidated in favor of the daughters of this marriage.

IN VIEW OF THE ABOVE, we respectfully request that this Honorable Court DENY the complaint filed, and GRANT the counterclaim, assessing costs, expenses and attorney fees upon the plaintiffs in the amount of $10,000.00 dollars.

RESPECTFULLY SUBMITTED

CERTIFIED: That I have mailed a copy of the present document to: Attorney Emilio Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645.

In San Juan, Puerto Rico this 18th of September of 1995.

(signed)

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
422 AGUYEBANA STREET
HATO REY, P.R. 00918
Telephone: 764-3280
BAR: # 5588

----------LEASE CONTRACT----------

-----In San Juan, Puerto Rico on August 22nd of nineteen hundred and eighty eight (1988).----------

----------APPEAR----------

ON ONE PART: DELIA ESTHER ALVAREZ, Widow LAMADRID, appearing in self representation and as administrative executrix for the Estate of José Lamadrid Capó; of legal age, a widow, property holder and a resident of Santurce, Puerto Rico, hereinafter named "THE LESSOR".-

ON THE OTHER PART: JOSE BENÍTEZ MARTÍNEZ and LILLIANA BERRIOS GUTIÉRREZ, married to one another, property holders and residents of Carolina, Puerto Rico, henceforth called "THE LESSEES".----------

----------S T A T E----------

-----FIRST: The LESSOR is the absolute owner of a commercial spot identified under #2 of the ground level at #1818 Loíza Street, in Santurce, Puerto Rico.----------

-----SECOND: That said locale consists of a rectangular space of approximately 1,431 square feet, with electrical, water and sewer facilities.----------

-----THIRD: TERM - The LESSOR grants and conveys the above stated property for a term of five (5) years commencing on September 1st of 1988, further providing that once said term expires, the contract can be renewed for a similar and additional five (5) year term, under the stipulations and conditions that the parties agree upon and/or might agree upon later on.----------

-----FOURTH: Rescissory Clause-It is further provided that the LESSORS can request that the contract be rescinded or annulled prior to the term date, without any penalty whatsoever - if any situation that so warrants it were to take place -through written notice served within the preceding thirty (30) days; further being disposed that upon said eventuality, the LESSEES shall deliver the locale in proper conditions and ready for lease at the end of said term.----------

-----FIFTH: Rental Rates - The rental rate shall be Four Hundred and Fifty ($450.00) Dollars per month during the first year, and Five Hundred ($500.00) Dollars per month starting September 1st of 1989 and for four (4) consecutive years, until the fifth year of said term; then Six Hundred and Twenty Five ($625.00) Dollars per month as of September 1st of 1993, and from there forward subject to the agreement between the parties for any subsequent years.----------

-----Said rates shall be paid monthly, in advance, between the first (1) and the fifth (5) day of each month, but no later than the tenth (10) day of each month.----------

----SIXTH: Use of the Property - The site object of this contract shall be solely destined to be used as an establishment for the wholesale and retail sale of hardware store items, and any other products relating to said type of commercial activity.----------

-----SEVENTH: Payment of Insurance and Utilities - Payment of water, telephone and electrical services will be on the account of the LESSEES. Furthermore the LESSEES shall obtain and keep in force, public liability insurance in accordance with the type of business to be operated.----------

-----EIGHTH: The LESSEES shall not alter the form, structure or stability of any part of the site object of this contract, which shall be returned in the same structural condition and stability upon termination of the lease, as it is at this time.----------

-----NINTH: Improvements - The LESSEES shall be able to carry out any improvement necessary for the purpose of adapting and habilitating in the locale for its destined purpose; said expenses shall be on their own account, further committing themselves to care for said property with due care afforded by reasonable and prudent persons. Said improvements are limited to what is indicated within paragraph EIGHT, also indicated that upon termination of the contract the LEASEHOLDER shall deliver the immovable property in good condition, excepting for normal and standard deterioration due to use. Upon termination of the contract the LEASEHOLDERS can remove all movable improvements made to the location. Those that they can not or do not wish to remove, shall remain as property of the LANDLORD, without any cost accruing upon them.---------

-----TENTH: Major and Necessary Repairs - Major or necessary structural repairs shall be on account of the LANDLORD, who promises that the LEASEHOLDERS will have full enjoyment of the leased immovable property. For said purposes the LANDLORD and/or their authorized agents shall be able to visit the rented property - giving prior notice within reasonable times and dates - for the purpose of making necessary structural for maintenance and security of same.----------

-----ELEVENTH: Necessary Minor Repairs - The costs for

necessary minor repairs that appear as a result of normal use and deterioration shall be on the account of the LEASEHOLDERS.----------

-----TWELFTH: THE LEASEHOLDERS cannot sublease or cede all or part of the immovable property, nor use it for other different purposes, without first obtaining written consent from the LANDLORD.----------

-----THIRTEENTH: Deposit - the LEASEHOLDERS shall post a deposit equal to one (1) month's rent, or Four Hundred and Fifty Dollars ($450.00) which cannot be used as a month's rent for arrears or as last month upon termination of the contract, but rather to respond for any existing damages resultant from any negligence by the LEASEHOLDERS thereby the LANDLORD is committed - upon termination of the contract - to immediately proceed to inspect the property and return said sum without undue delay, once the conditions of said unmovable property are to his satisfaction.----------

-----FOURTEENTH: If in the future the LEASEHOLDERS were to contemplate the idea of selling the establishment to a third party, they may so do, after giving written notice to the LANDLORD, if and when it relates to the same type of commercial activity. Nevertheless, the lease agreement will only be subject to what has been agreed to by the LANDLORD and the PURCHASER; the LANDLORD reserves the right to arrange a different lease rate for said purchaser than those agreed to herein with the LEASEHOLDER.----------

-----FIFTEENTH:If in the future the LANDLORD were to contemplate selling the site or building where same is lo-

cated, he shall give notice of his intention to the LEASEHOLDERS, in case they have an interest in purchasing said immovable property. If this were the case and no agreement is reached, he shall insure that any sale to a third party includes an acknowledgment and acceptance of the current lease by the purchaser, for the term and duration of same.-

-----The herein appearing parties accept the present document since its terms and conditions in accordance to what is agreed.----------

-----THUS they recognize and sign the present document in San Juan, Puerto Rico this 22nd day of August of 1988.-----

(signed) (signed)

José Benítez Martínez Lilliana Berríos Gutiérrez

LEASEHOLDERS

(signed)
Delia Esther Alvarez Widow
of Lamadrid and the Estate of
José Lamadrid Capó

September 8, 1993

Mrs. Delia E. Alvarez Vda. Lamadrid

Dear Mrs. Alvarez Vda. Lamadrid:

Please be that we have stipulated away ourselves the mentioned contract to be re-drawn under the same agreement conditions as before.

With respect to our conversation with your daughter Nancy Lamadrid de Bonini, upon revising the contract we have found that in error a payment was made October 1991 up to and including August 1993 in the amount of $550.00 monthly of which it should have been $500.00 only, and therefore we have in our posesions an outstanding credit in the amount of $1,150.00 which corresponds more less to $50.00 for twenty three (23) months.

To our convenience it should be agreeable away us a credit of $50.00 per each month, here with agree to the amount of $625.00, starting September 1993, of which the same be $575.00 with the next 23 months and then continue at the same canon monthly and time of $625.00 on the next thirty seven months.

Yours truly,

(Signed)
José Benítez

Accpetance: Nancy Lamadrid Bonini
Delia E. Alavarez Vda. Lamadrid
(Nancy Lamdrid signed for the Association)

(Signed)

Lilliana Berrios

(Signed)

Nancy Lamadrid de Bonini

(Signed)

Teresa Lamadrid

71pa

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO.KAC 95-1036
	*	(803)
Plaintiffs	*	SUBJ: LIQUIDATION
	*	INHERITED ASSETS
Vs.	*	
	*	
NANCY LAMADRID ALVAREZ, et. als.	*	
	*	
Defendants	*	

****

MOTION REQUESTING PARTY BE ORDERED

TO COMPLY WITH COURT ORDER

TO THE HONORABLE COURT:

Comes now co-defendant and plaintiff in counter-claim Teresa Lamadrid Alvarez through her undersigning attorney, and very respectfully states, alleges and prays:

1. That in a hearing held by this Honorable Court on date of December 27th of 1995, and upon request by all parties therein, having resolved that the sole

immovable (property) be appraised for its subsequent disposal through a sale. Said appraisal was performed and the pertinent appraisal report was distributed to all parties therein. To date, no objection to same have been raised.

2. The Honorable Court, granting our request dated March 7th of 1996, resolved that same should be sold within a period of four months.

3. Subsequent to said disposition, and in a meeting on date of April 10th of 1996, attorney Emilio Montañez Delerme drew to the attention of the Honorable Court as to the existence of an apparent sales commitment with one of the tenants. In respect to said circumstance, the assignment of a real estate broker was voided, and the Honorable Court decided to assess said possibility.

3. (sic.) Neither defendant Nancy Lamadrid Alvarez nor her attorney stated any objections whatsoever at said time.

4. Having verified the existence of an apparent commitment with the tenant, and following the instructions of the Honorable Court, and option to buy document was drafted, granting him a period of 60 days to conclude the transaction. Said document was signed by co-defendant and plaintiff in counterclaim, Teresa Lamadrid Alvarez, and by plaintiff Lillian Alvarez Lazzarini. Co-defendant Nancy Lamadrid Alvarez refused to sign without giving any explanation.

5. Maintenance of the immovable (property) entails a monthly expense in excess of one thousand dollars. We deem that this is a reasonable basis to dispose of same as soon as possible.

IN VIEW of everything stated above, we respectfully request that this Honorable Court, under the faculty granted it under Rule 56.1 of Civil Procedure, undertake the corresponding remedy therein, for the purpose of complying with the previously issued order, and that any expenses incurred for delay in the sale of said property be imputed upon co-defendant Nancy Lamadrid Alvarez for voluntarily hindering the procedures.

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico, this 25th of April of 1996.

I Certify to have forwarded a true and correct copy of the present document to attorneys Rafael A. Oliveras López de Victoria, #422 Agueybana Street, Hato Rey, Puerto Rico 00918; Emilio A. Montañez Delerme, Box 6645, San Juan, Puerto Rico 00914-6645.

HECTOR A. COLÓN CRUZ
Box 13282
San Juan, PR 00908-3282
Telephone:724-1889
Bar: # 2090

74pa

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO. KAC95-1036
	*	
Plaintiff	*	DIVISION: 803
	*	
Vs.	*	SUBJ:
	*	
NANCY LAMADRID, et. als.	*	
	*	
Defendants	*	
	*	

****

REPLY TO MOTION

TO THE HONORABLE COURT:

COMES NOW co-defendant NANCY LAMADRID ALVAREZ, through her undersigning attorney, and very respectfully Informs:

1. That the plaintiff has demonstrated an extraordinary interest that a third party purchase a property. This interest, in a certain sense, makes the plaintiff a spokesperson for the alleged buyer.

2. This situation is above and beyond the interests that Mrs. Nancy Lamadrid has in acquiring said property

as a heiress and joint asset holder of the estate; currently, Mrs. Lamadrid has a 7.4% per cent inheritance originating from her father, and a 22.2% per cent inheritance from her mother.

We respectfully assess that Mrs. Nancy Lamadrid has a right of repurchase to acquire the property subject of this litigation. This right within this suit must be protected. We respectfully submit that plaintiff as well as co-defendant Teresa Lamadrid are incorrect for the two following reasons:

a. Mrs. Nancy Lamadrid has a right to purchase the asset as a joint holder, under the joint holder repurchase right;

b. We sustain that tenant Ferretería Lamadrid/José Benítez Martínez lacks standing in this case, since he is not a party to same.

This is simply a hereditary succession suit, in which tenant Ferretería Lamadrid/José Benítez Martínez must not intervene.

We request that this Honorable Court GRANT our response, and consequently prohibit the lease holder from intervening, either directly or indirectly in this case, since he lacks standing to do so in same.

RESPECTFULLY SUBMITTED

I CERTIFY: To have sent a copy of the above stated document to Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, P.R. 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, P.R. 00908.

76pa
In San Juan, Puerto Rico this 31st of May of 1996.

(signed)

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
#422 AGUEYBANA STREET
HATO REY, PR 00918
Telephone: 764-3280
BAR: # 5588

77pa

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO. KAC95-1036
	*	
Plaintiff	*	DIVISION: 803
	*	
Vs.	*	SUBJ:CIVIL ACTION
	*	
NANCY LAMADRID, et. als.	*	
	*	
Defendants	*	
	*	

****

NOTIFICATION

I HEREBY CERTIFY IN RELATION WITH THE UNDERSIGNED CASE ON THE 23TH OF AUGUST, 1996. THE COURT HEREBY SENTENCED AND ORDERS HEREIN ENCLOSED IN CONTINUATION.

LIC. OLIVERAS LOPEZ DE VICTORIA, R.A.
422 AGUEYBANA ST.
SAN JUAN, PR. 00918

I HEREBY CERTIFY ON THIS DAY OF THAT SUCH FORMS WERE SENT BY CERTIFIED MAIL TO THE FOLLOWING PERSONS AND THEIR RESPECTED ADDRESSES.

78pa

COLON CRUZ, HECTOR A.
P.O. BOX 13282
SAN JUAN, PR 00908-3282

MONTANEZ DELERME. EMILIO A
P.O. BOX 6645
SAN JUAN PR 00914-6645

RIVERA MATOS, LYDIA
P.O. BOX 192
SAN JUAN, PR 00902

ING. JAIME ISERN PINERO (TASADOR)
P.O. BOX 13282
SAN JUAN, PR 00918

LIC. COLON CRUZ, HECTOR A.
P.O. BOX 13282
SAN JUAN, PR 00918

SIGNED

CARMEN L. LOPEZ CRUZ
SECRETARY

C. PAGAN R
AUXILIAR SECRETARY

NTOTIFICATION AND RESOLUTION ORDERS

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO.KAC95-1036
LILLIAN ALVAREZ LAZZARINI	*	(803)
	*	
Plaintiffs	*	
	*	SUBJ:
Vs.	*	
	*	
NANCY LAMADRID ALVAREZ	*	
TERESA LAMADRID ALVAREZ	*	
	*	
Defendants	*	

****

DIVERSE ORDERS AND INDICATIONS

The following motions having been surmised:

1. Answer to Motion by plaintiff Requesting Protective Order, filed on July 30 of 1996;
2. Request for Reconsideration from co-defendant Teresa Lamadrid Alvarez, filed on August 12th of 1996;
3. Request for Reconsideration from co-defendant Teresa Lamadrid Alvarez, filed on August 12th of 1996; (sic.)
4. Motion Requesting Extension of Term from co-plaintiff Nancy Lamadrid Alvarez;
5. Request from co-defendant Nancy Lamadrid Alvarez for an Order to compel co-defendant Nancy Lamadrid Alvarez to consign all documentation of the Estate to the Court;

6. Answer from the plaintiff, to Order issued on August 1st of 1996; the court resolves and disposes the following:
   a) In respect to motions numbered 1 and 2, the Court rules that the immovable (property) be sold to the lease holder.
   b) As far as motion under number 3, the Court DENIES the request for reconsideration.
   c) As far as motion under number 4, DENIED.
   d) In reference to Motion under number 5, said request is GRANTED and executable within the next ten (10) days, under penalty of sanctions and/or contempt.
   e) In relation to Motion under number 6, said request is GRANTED. Consequently, co-defendant is ordered to sign the Option Contract within five (5) days, otherwise the Marshal shall be ordered to sign on her behalf.

The case is scheduled for follow-up hearing on November 26th of 1996 at 9:00 a.m.

BE IT NOTIFIED

Issued in San Juan, Puerto Rico this 23rd of August de 1996.

(signed)

WILFREDO ALICEA LÓPEZ

JUDGE

COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	* CIVILNUM.
	* KLCE-9600965
LILLIAN ALVAREZ LAZZARINI	*
	*
APPELLEES	*
	*
VS	*
	*
TERESA LAMADRID ALVAREZ	*
	*
APPELLEE	*
	*
NANCY LAMADRID ALVAREZ	*
	*
PETITIONER	*

****

OBJECTION TO REQUEST FOR CERTIORARI

LCDO. RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
#422 AGUEYBANA STREET
HATO REY, PR

ATT. HECTOR A. COLÓN CRUZ
BOX 13282
SAN JUAN, PR 00908

HON, JORGE PIERLUISI
JUSTICE SECRETARY
C/O ATT. LYDIA RIVERA MATOS
P.O. BOX 192
SAN JUAN, PR

EMILIO MONTAÑEZ DELERME
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FAX: 728-5405

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COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO.
	*	KLLE96-00965
LILLIAN ALVAREZ LAZZARINI	*	
	*	
APPELLEES	*	
	*	
VS	*	
	*	
TERESA LAMADRID ALVAREZ	*	
	*	
APPELLEE	*	
	*	
NANCY LAMADRID ALVAREZ	*	
	*	
PETITIONER	*	

****

OBJECTION TO REQUEST FOR CERTIORARI

TO THE HONORABLE COURT:

Comes now the plaintiff appellant represented through her undersigning attorney, and respectfully submits the present writ requesting the dismissal of a Motion for CERTIORARI filed by co-defendant NANCY LAMADRID ALVAREZ.

I. JURISDICTION

This court has jurisdiction to engage and resolve this appeal, in accordance with the provisions of Articles 4.001 and 4.002 of the Judiciary Law of 1994, and what is provided within Rules 5 and 14 of the Circuit Court of Appeals.

II. SENTENCE SUBMITTED FOR REVIEW

Co-defendant-appellant NANCY LAMADRID ALVAREZ has requested a remedy for CERTIORARI for the purpose of reviewing the Order issued by the General Trial Court, San Juan Superior Division, in civil case number KAC-95-1036-803, in which it is instructed that the immovable (property) belonging to the Estate of Mrs. Delia Alvarez Lazzarini be sold to the lease holder. (See exhibit I).

III. REGIONAL CIRCUIT

This appeal is filed before the 1st Regional Circuit.

IV. ALLEGATION IN SUPPORT OF REQUEST FOR DENIAL

On date of August 14th of 1995, a complaint was filed at the San Juan Superior Trial Court by testamentary heirs ERNESTO ALVAREZ LAZZARINI and LILLIAN ALVAREZ LAZZARINI against co-defendants NANCY ALVAREZ LAMADRID and TERESITA LAMADRID ALVAREZ as to liquidate the assets of constituent DELIA ESTHER ALVAREZ LAZZARINI who was the sister of the plaintiffs and mother of the defendants. (See exhibit II).

This complaint is the only alternative available to plain-

tiffs to foreclose the arbitrary management of NANCY LAMADRID ALVAREZ, who has not rendered any account balance therein.

The assets left by constituent MRS. DELIA ESTHER ALVAREZ LAZZARINI consist of bank accounts and a three (3) story building located at 1818 Loíza Street in Santurce, Puerto Rico, which currently only has two (2) business occupants, and is in advanced state of deterioration.

The services of Engineer Jaime Insern Piñeiro, an expert appraiser were contracted with the consent and approval of all parties therein, as to carry out an appraisal of said immovable (property), and in accordance with the report that he submitted on date of February 6th of 1996, said property has a value of $244,000.00 dollars.

Once the value of the property became known, response from a real estate broker was then recommended.

The co-defendant/appellant and proponent lets the parties know that she was interested in contracting the services of real estate broker Alberto Hernández for the sale of the property. In view of said situation, we filed a motion objecting to that, on April 1st of 1996, upon learning that there was a contract under promise to sell signed by the constituent with the lease holder, Mr. José Benítez and ratified by the here instated proponent; furthermore, the Estate would be saving a commission for the brokerage services. (See exhibit III).

Since we do not have a copy of the lease contract between Mr. José Benítez Martínez and constituent Delia Esther Alvarez Lazzarini, we requested same from co-de-

fendant Nancy Lamadrid Alvarez through her attorney, and we were provided with a copy from the constituent, signed on August 22nd of 1988, and we noticed that under clause fifteen (15) there exists a promise of sale to Mr. Benítez. (See Exhibit IV).

Once we found out about the situation, this attorney visited Mr. Benítez, and he requested a copy of the appraisal; upon finding out about the price of the immovable, he stated to be interested in purchasing said property and that he had the money available, furthermore, he showed us a document in which co-defendant Nancy Lamadrid Alvarez ratified the option to purchase. (See Exhibit V).

Upon the parties knowing that there was a purchaser for the property, a option to purchase contract was drafted was signed by the Benítez couple and all heirs except co-defendant Nancy Lamadrid Alvarez, on date of April 19th, 1996, date on which a deposition was taken from co-plaintiff Lillian Alvarez Lazzarini; the contract for option to purchase was delivered to co-defendant Nancy Lamadrid Alvarez's attorney, but she refused to sign. (See Exhibit VI).

As of today, co-defendant Nancy Lamadrid Alvarez had not shown any interest in purchasing the property; we first learned of her interest in doing so after she filed a writ on May 31st of 1996, title Answer to Motion, whereby she forwards the doctrine of joint owner redemption rights, which is not applicable to this case. (See exhibit VII).

As this Honorable Court can see, Mr. José Benítez Martínez is not a third party brought into the litigation by attorney Emilio (sic.) who has the financial means, and could bring cause of action against the Estate if clause fif-

teen (15) of the lease agreement signed by him and the constituent on August 22nd of 1988 is not complied with.

Respectfully, it is our assessment that the Appeal should be denied, since said recourse is frivolous and that it is transparent that no substantial controversy is apparent. Rule 31 (b) (4) of the Regulations for the Circuit Court of Appeals.

WHEREFORE, we respectfully request that the Writ of Certiorari be denied, adding any other disposition provided under Law.

CERTIFIED: That I have sent a copy of the present document to Att. Rafael A. Oliveras López de Victoria, 422 Agueybaná Street, Hato Rey, Puerto Rico; Attorney Héctor Colón Cruz, Box 13282, San Juan, Puerto Rico 00908-3282; Mrs. Lydia Rivera Matos, Office of the Secretary of Justice, P. O. Box 192, San Juan, Puerto Rico 00902.

In San Juan, Puerto Rico on October 9th of 1996.

EMILIO MONTAÑEZ DELERME
BAR: # 6217
PO BOX 6645
SAN JUAN, PR 00914-6645
Telephone: 727-3261
Fax: 728-5405

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COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	* CIVIL NO.
	* KAC95-1036
LILLIAN ALVAREZ LAZZARINI	* (803)
	*
Plaintiffs	*
	* SUBJ:
Vs.	*
	*
NANCY LAMADRID ALVAREZ	*
TERESA LAMADRID ALVAREZ	*
	*
Defendants	*

****

DIVERSE ORDERS AND INDICATIONS

The following motions having been surmised:

1. Answer to Motion by plaintiff Requesting Protective Order, filed on July 30 of 1996;
2. Request for Reconsideration from co-defendant Teresa Lamadrid Alvarez, filed on August 12th of 1996;
3. Request for Reconsideration from co-defendant Teresa Lamadrid Alvarez, filed on August 12th of 1996; (sic.)
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5. Request from co-defendant Nancy Lamadrid Alvarez for an Order to compel co-defendant Nancy

Lamadrid Alvarez to consign all documentation of the Estate to the Court;

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   d) In reference to Motion under number 5, said request is GRANTED and executable within the next ten (10) days, under penalty of sanctions and/or contempt.
   e) In relation to Motion under number 6, said request is GRANTED. Consequently, co-defendant is ordered to sign the Option Contract within five (5) days, otherwise the Marshal shall be ordered to sign on her behalf.

The case is scheduled for follow-up hearing on November 26th of 1996 at 9:00 a.m.

BE IT NOTIFIED

Issued in San Juan, Puerto Rico this 23rd of August de 1996.

(signed)

WILFREDO ALICEA LÓPEZ

JUDGE

92pa

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO. KAC-95-1036
LILLIAN ALVAREZ LAZZARINI	*	
	*	
PLAINTIFFS	*	
	*	
VS.	*	SUBJ:
	*	
NANCY LAMADRID ALVAREZ	*	
TERESA LAMADRID ALVAREZ	*	SETTLEMENT OF INHERITANCE
	*	
DEFENDANTS	*	

****

COMPLAINT

TO THE HONORABLE COURT:

Comes now the plaintiffs represented by undersigned attorney, and very respectfully alleges and prays:

1. That the plaintiffs are brother and sister, and heirs to the freely disposable third from constituent DELIA ESTHER ALVAREZ LAZZARINI who passed away on March 30th 1994.

2. That co-defendants are the adoptive daughters of the constituent and testamentary heiresses of the legitimate and beneficial improvement thirds disposed under Law.

3. That at the time of death of constituent MRS. DELIA ESTHER ALVAREZ LAZZARINI, she possessed exclusive title to:

   a. An 85.3% share of the lot and 271 square meter three story concrete building therein, located at 1818 Loíza Street, Santurce, Puerto Rico. Property registration code number 18.041.041.232. 49.0.01.

Registered under page 86, volume 491 of Santurce North, estate 478, which appears under (name) José Lamadrid Capó.

   b. An 85.3% share of the cash within the Lamadrid Guesthouse account at Banco Vizcaya, account number 011-109003486.

   c. An 85.3% share of the cash within the Lamadrid Rental Property account at Banco Popular de PR, 015-0243-69.

   d. Cash within the Ideal account, Banco Popular de PR, account 015-770060.

   e. Personal property.

All of this property has an estimated value of over $300,000.00 dollars.

4. That constituent MRS. DELIA ESTHER ALVAREZ LAZZARINI issued a will opened on May 30th

of 1989 in Isla Verde, Puerto Rico before Notary Carmen Teresa Agudo Loubriel, which is registered under the Register for Powers of Attorney and Wills of the Supreme Court of Puerto Rico.

5. That no person was designated to the position of executor.

6. That since date of the death of constituent MRS. DELIA ESTHER ALVAREZ LAZZARINI, co-defendant NANCY LAMADRID, in an arbitrary manner and without the consent or authorization of the plaintiffs, has taken charge of the management, operation and exploitation of the inherited estate, without rendering accounts to them.

7. That co-defendant NANCY LAMADRID ALVAREZ has taken a stance of enmity against the plaintiffs, and no dialogue is possible relating to settlement of the assets.

8. That plaintiffs have tried to communicate with the defendant to promote a dialogue, and this has not been possible.

9. That plaintiffs have a marked interest in closing out the assets of the estate, since more than one year has elapsed since the death of the constituent, and the defendant has not shown any interest in resolving this situation.

WHEREFORE, it is very respectfully requested that this Honorable Court GRANT the complaint and consequently:

a. Appoint an appropriate person as judicial administrator.

b. Order the defendants to consign to the court the amounts for rents and/or all benefits produced by the assets of the constituent as of her death.

c. Present a monthly report to the plaintiff, as to income and expenses as of the date in which she takes possession of the assets.

d. That defendant be sanctioned with attorney fees and expenses.

e. That constituent's assets be liquidated.

f. That a rent be assigned to the immovable property and that it be ordered that the shares belonging to the plaintiff be placed under consignment of the Court, retroactive from the date of the constituent's death.

g. That liquidation of the assets left by constituent be ordered.

h. Any other remedy provided by Law.

In San Juan, Puerto Rico this 11th of August of 1995.

(signed)
EMILIO A.MONTAÑEZ DELERME
BAR # 6217 - P.O. BOX 6645
SAN JUAN, PR 00914-6645
Telephone: 727-3261
FAX: 728-5405

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO.KAC-95-1036
LILLIAN ALVAREZ LAZZARINI	*	
-	*	
PLAINTIFF	*	
	*	
VS	*	SUBJ:
	*	
NANCY LAMADRID ALVAREZ	*	
et. als.	*	
	*	
DEFENDANTS	*	

****

MOTION OBJECTING TO APPOINTMENT

OF REAL ESTATE BROKER

TO THE HONORABLE COURT:

COMES NOW the plaintiff represented by the undersigning attorney, and very respectfully alleges and prays:

1. That the defendant filed a writ to the Honorable Court in which she states her desire to have the Alberto Hernández Real Estate Brokerage Firm appointed to procure and obtain a buyer for the

Estate's immovable property.

2. That the plaintiff objects that co-defendant Nancy Lamadrid Alvarez's Petition be granted.
3. That the objection is due to the existence of a contract with one of the leaseholders which, aside from leasing him a location, also grants him the right to purchase said property.
4. That non-compliance with said contract could result that said parties become subject of a suit in tort for breach of contract.
5. That furthermore, the property is saleable without the need for a real estate broker, wherefore the parties will save commission costs.

WHEREFORE, it is respectfully requested from this Honorable Court that this Motion be Granted, and that co-defendant Nancy Lamadrid Alvarez's request to contract a real estate broker be denied.

In San Juan, Puerto Rico this 27th day of March of 1996.

I CERTIFY: To have notified with a copy of this present document to Attorney Rafael A. Oliveras López de Victoria, 422 Agueybaná St., Hato Rey, PR 00917 and to attorney Héctor Colón Cruz, P.O. Box 13282, San Juan, PR 00928.

EMILIO A. MONTAÑEZ DELERME
Attorney for the Plaintiff
Bar: # 6217
P. O. BOX 6645
SAN JUAN, PR 00914-6645
Telephone: 727-3261
FAX: 728-5405

----------LEASE CONTRACT----------

-----In San Juan, Puerto Rico on August 22nd of nineteen hundred and eighty eight (1988).----------

----------APPEAR----------

ON ONE PART: DELIA ESTHER ALVAREZ, Widow LAMADRID, appearing in self representation and as administrative executrix for the Estate of José Lamadrid Capó; of legal age, a widow, property holder and a resident of Santurce, Puerto Rico, hereinafter named "THE LESSOR".-

ON THE OTHER PART: JOSE BENÍTEZ MARTÍNEZ and LILLIANA BERRIOS GUTIÉRREZ, married to one another, property holders and residents of Carolina, Puerto Rico, henceforth called "THE LESSEES".----------

----------S T A T E----------

-----FIRST: The LESSOR is the absolute owner of a commercial spot identified under #2 of the ground level at #1818 Loíza Street, in Santurce, Puerto Rico.----------

-----SECOND: That said locale consists of a rectangular space of approximately 1,431 square feet, with electrical, water and sewer facilities.----------

-----THIRD: TERM - The LESSOR grants and conveys the above stated property for a term of five (5) years commencing on September 1st of 1988, further providing that once said term expires, the contract can be renewed for a similar and additional five (5) year term, under the stipulations and conditions that the parties agree upon and/or might agree upon later on.----------

-----FOURTH: Rescissory Clause-It is further provided that the LESSORS can request that the contract be rescinded or annulled prior to the term date, without any penalty whatsoever - if any situation that so warrants it were to take place -through written notice served within the preceding thirty (30) days; further being disposed that upon said eventuality, the LESSEES shall deliver the locale in proper conditions and ready for lease at the end of said term.----------

-----FIFTH: Rental Rates - The rental rate shall be Four Hundred and Fifty ($450.00) Dollars per month during the first year, and Five Hundred ($500.00) Dollars per month starting September 1st of 1989 and for four (4) consecutive years, until the fifth year of said term; then Six Hundred and Twenty Five ($625.00) Dollars per month as of September 1st of 1993, and from there forward subject to the agreement between the parties for any subsequent years.----------

-----Said rates shall be paid monthly, in advance, between the first (1) and the fifth (5) day of each month, but no later than the tenth (10) day of each month.----------

----SIXTH: Use of the Property - The site object of this contract shall be solely destined to be used as an establishment for the wholesale and retail sale of hardware store items, and any other products relating to said type of commercial activity.----------

-----SEVENTH: Payment of Insurance and Utilities - Payment of water, telephone and electrical services will be on the account of the LESSEES. Furthermore the LESSEES shall obtain and keep in force, public liability insurance in accordance with the type of business to be operated.----------

-----EIGHTH: The LESSEES shall not alter the form, structure or stability of any part of the site object of this contract, which shall be returned in the same structural condition and stability upon termination of the lease, as it is at this time.----------

-----NINTH: Improvements - The LESSEES shall be able to carry out any improvement necessary for the purpose of adapting and habilitating in the locale for its destined purpose; said expenses shall be on their own account, further committing themselves to care for said property with due care afforded by reasonable and prudent persons. Said improvements are limited to what is indicated within paragraph EIGHT, also indicated that upon termination of the contract the LEASEHOLDER shall deliver the immovable property in good condition, excepting for normal and standard deterioration due to use. Upon termination of the contract the LEASEHOLDERS can remove all movable improvements made to the location. Those that they can not or do not wish to remove, shall remain as property of the LANDLORD, without any cost accruing upon them.--------

-----TENTH: Major and Necessary Repairs - Major or necessary structural repairs shall be on account of the LANDLORD, who promises that the LEASEHOLDERS will have full enjoyment of the leased immovable property. For said purposes the LANDLORD and/or their authorized agents shall be able to visit the rented property - giving prior notice within reasonable times and dates - for the purpose of making necessary structural for maintenance and security of same.----------

-----ELEVENTH: Necessary Minor Repairs - The costs for

necessary minor repairs that appear as a result of normal use and deterioration shall be on the account of the LEASEHOLDERS.----------

-----TWELFTH: THE LEASEHOLDERS cannot sublease or cede all or part of the immovable property, nor use it for other different purposes, without first obtaining written consent from the LANDLORD.----------

-----THIRTEENTH: Deposit - the LEASEHOLDERS shall post a deposit equal to one (1) month's rent, or Four Hundred and Fifty Dollars ($450.00) which cannot be used as a month's rent for arrears or as last month upon termination of the contract, but rather to respond for any existing damages resultant from any negligence by the LEASEHOLDERS thereby the LANDLORD is committed - upon termination of the contract - to immediately proceed to inspect the property and return said sum without undue delay, once the conditions of said unmovable property are to his satisfaction.----------

-----FOURTEENTH: If in the future the LEASEHOLDERS were to contemplate the idea of selling the establishment to a third party, they may so do, after giving written notice to the LANDLORD, if and when it relates to the same type of commercial activity. Nevertheless, the lease agreement will only be subject to what has been agreed to by the LANDLORD and the PURCHASER; the LANDLORD reserves the right to arrange a different lease rate for said purchaser than those agreed to herein with the LEASEHOLDER.----------

-----FIFTEENTH:If in the future the LANDLORD were to

contemplate selling the site or building where same is located, he shall give notice of his intention to the LEASEHOLDERS, in case they have an interest in purchasing said immovable property. If this were the case and no agreement is reached, he shall insure that any sale to a third party includes an acknowledgment and acceptance of the current lease by the purchaser, for the term and duration of same.-

-----The herein appearing parties accept the present document since its terms and conditions in accordance to what is agreed.----------

----THUS they recognize and sign the present document in San Juan, Puerto Rico this 22nd day of August of 1988.-----

(signed) (signed)

José Benítez Martínez Lilliana Berríos Gutiérrez

LEASEHOLDERS

(signed)

Delia Esther Alvarez Widow
of Lamadrid and the Estate of
José Lamadrid Capó

OPTION TO PURCHASE CONTRACT

In the city of San Juan, Puerto Rico this day of the month of April of 1966.

----------APPEAR----------

-----**ON ONE PART: MR. ERNESTO ALVAREZ LAZZARINI,** social security number 582-05-8351, of legal age, married to **NOELIA NAZARIO LAZZARINI,** a property owner and a resident of Santurce,Puerto Rico; **MRS. LILLIAN ALVAREZ LAZZARINI,**social security number 582-14-9245, of legal age,single,property owner and a resident of Santurce,Puerto Rico; **MRS.NANCY LAMADRID ALVAREZ,** social security number of legal age, married to Juan Bonini Figueroa, property owner and resident of Santurce, Puerto Rico; **MRS. TERESA LAMADRID ALVAREZ** , social security number single, property owner and a resident of Río Piedras, Puerto Rico, henceforth known as **THE SELLERS.**----------

-----**ON THE OTHER PART: MR. JOSE BENITEZ MARTINEZ,** social security number 584-62-8168, and his wife **MRS. LILIANA BERRIOS GUTIERREZ,** both of legal age, businesss owners, and residents of Carolina, Puerto Rico, heneceforth called **"THE PURCHASERS"**----------

----------WHO STATE----------

-----**FIRST:** That the SELLERS hereby grant the purchasers an option upon the property described as follows:----------

-----**Lot located at the Machuchal sector, of the Nothern Section of Santurce Ward, in San Juan, Puerto Rico. It contains a completed three story building, being the first floor commercial; the two upper levels are residential, with two residences each, and numbered as one thousand eight hundred and eighteen of Loíza Street.The lot measures twelve meters in frontage, and twenty five meters in depth, that is, three hundred square meters. The front end faces NORTH, and abbuts with what today is Loíza Street; on the SOUTH, with lands previously owned by Gerónimo del Rosario, currently belonging to Mr. Rafael and Mr. Antonio Martínez; on the WEST, with property of Nicasio Calderón and on the EAST, with the lands of Gerónimo del Rosario.**----------

-----REGISTERED: Under page 131, Volume 385 of Santurce North, lot 478.----------

-----**SECOND:** That parties have agreed that the sum of $244,000.00 dollars is the sale price for said inmovable (property).----------

-----**THIRD:** The **SELLER** grants the **PURCHASER** a term of sixty (60) days beginning on date of signature of the contract, to purchase said inmovable property.----------

-----**FOURTH:** The **SELLERS** bind themselves to not sell said property during the term of this contract.----------

-----**FIFTH:** The **PURCHASERS** will advance the sum of $_____ to the **SELLERS** for purposes of this option, which will be credited to the sales price.----------

-----**SIXTH:** This option will be subject to approval of a mortgage loan.----------

-----**SEVENTH:** The property shall be sold without any equipment, and in its current condition, and any improvements upon same will be upon account of the **PURCHASING PARTY.**----------

------**EIGHTH:** The parties state that there exists no kinship between them.----------

(Signed by) (Signed by)

Lillian Alvarez Lazzarini J. Benítez Martínez

Teresa Lamadrid Alvarez Lilian Berríos G

Ernesto Alvarez Lazzarini

SELLERS PURCHASERS

AFFIDAVIT NUMBER

Sworn and signed before me by the above stated parties, of said stated personal circumstances, and who I attest to have personally known and identified in San Juan, Puerto Rico, this day of March of 1996.

(No Notarial Seal or Signature)

NOTARY PUBLIC

106pa

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
SAN JUAN SUPERIOR DIVISION

ERNESTO ALVAREZ LAZZARINI	*	CIVIL NO. KAC95-1036
	*	
Plaintiff	*	DIVISION: 803
	*	
Vs.	*	SUBJ:
	*	
NANCY LAMADRID, et. als.	*	
	*	
Defendants	*	
	*	

****

REPLY TO MOTION

TO THE HONORABLE COURT:

COMES NOW co-defendant NANCY LAMADRID ALVAREZ, through her undersigning attorney, and very respectfully Informs:

1. That the plaintiff has demonstrated an extraordinary interest that a third party purchase a property. This interest, in a certain sense, makes the plaintiff a spokesperson for the alleged buyer.
2. This situation is above and beyond the interests that Mrs. Nancy Lamadrid has in acquiring said property as a heiress and joint asset holder of the estate; currently, Mrs. Lamadrid has a 7.4% per cent inheritance

originating from her father, and a 22.2% per cent inheritance from her mother.

We respectfully assess that Mrs. Nancy Lamadrid has a right of repurchase to acquire the property subject of this litigation. This right within this suit must be protected. We respectfully submit that plaintiff as well as co-defendant Teresa Lamadrid are incorrect for the two following reasons:

a. Mrs. Nancy Lamadrid has a right to purchase the asset as a joint holder, under the joint holder repurchase right;
b. We sustain that tenant Ferretería Lamadrid/José Benítez Martínez lacks standing in this case, since he is not a party to same.

This is simply a hereditary succession suit, in which tenant Ferretería Lamadrid/José Benítez Martínez must not intervene.

We request that this Honorable Court GRANT our response, and consequently prohibit the lease holder from intervening, either directly or indirectly in this case, since he lacks standing to do so in same.

RESPECTFULLY SUBMITTED

I CERTIFY: To have sent a copy of the above stated document to Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, P.R. 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, P.R. 00908.

In San Juan, Puerto Rico this 31st of May of 1996.

(signed)

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
#422 AGUEYBANA STREET
HATO REY, PR 00918
Telephone: 764-3280
BAR: # 5588

COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	*	CASE NO.
LILLIAN ALVAREZ LAZZARINI	*	
	*	KLCE-96-00965
Appellees	*	
	*	
Vs.	*	
	*	
TERESA LAMADRID ALVAREZ	*	
Appellee	*	
NANCY LAMADRID ALVAREZ	*	
Petitioner	*	

****

MEMORANDUM OBJECTING TO ISSUANCE OF WRIT OF CERTIORARI

Att. Emilio A. Montañez Delerme
P. O. Box 6645
San Juan, Puerto Rico 00914-6645
Att. Hector A. Colón Cruz
Box 13282
San Juan, Puerto Rico 00908
Secretary of Justice
Honorable Judge Pierluisi
and/or Att. Lydia Rivera Matos
P.O. Box 192, San Juan,

Puerto Rico 00902

RAFAEL A. OLIVERAS LOPEZ DE VICTORIA
422 AGUEYBANA STREET
HATO REY, P.R. 00918
TELEPHONE #: 764-3280
BAR # 5588

110pa

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COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
TRIAL COURT
SAN JUAN SUPERIOR COURT

ERNESTO ALVAREZ LAZZARINI	* CIVIL NO.
	* KAC95-1036
	*
Plaintiff	*SUBJ:
	*
Vs.	*
	*
NANCY LAMADRID ALVAREZ	* LIQUIDATION OF
	*INHERITED ASSETS

****

MINUTES

Appearing at the contempt hearing are attorney Rafael A. Oliveras López de Victoria representing the defendant, and Attorney Héctor A. Colón Cruz representing co-defendant and countert plaintiff Teresa Lamadrid Alvarez. Also appearing is Mrs. Nancy Lamadrid Alvarez.

In a meeting held in chambers, the court rules as follows:

Through error or omission by the parties, the Name on Nancy Lamadrid Lazzarini has appeared in subsequent writs in this complaint. We draw our attention to those attorneys who have incurred in an error, and that the name is Nancy Lamadrid Alvarez.

After considering the matters pending in this case, the Court orders as follows:

Defendant Nancy Lamadrid Alvarez is granted until December 31st of 1995 to provide a management report, from the time since has been in fact managing her mother's and the estate's assets.

The sum of $30,000.00 will be consigned to the Court within said time frame, and interrogatories served upon co-defendant Nancy Lamadrid Alvarez by the plaintiff shall be replied to. Attorney Rafael Oliveras Lópeza de Victoria is granted a term of 30 days to elaborate and establish the analysis relating to the discrimination.

Appraiser Jaime Insern is designated, by stipulation between the parties, to appraise the building property of the estate, located at 1818 Loíza Street, Santurce, P.R. Said appraiser shall be requested to examine said property and report therein.

For purposes of examininfg said property, he shall contact Mrs. Nancy Lamadrid at telephone number 257-7883.

It shall be noted that the apparaiser's fees shall be paid for from estate's property assets.

The defendant indicates that she proposes to take a deposition from the plaintiff and the physician who had attended the constituent.

For: LIZZETTE CORTES

Assistant Secretary

Date: December 15th, 1996

(CONTINUATION)

ERNESTO ALVAREZ LAZZARINI	* CIVILNO.
	* KAC95-1036
	*
Plaintiff	* SUBJ:
	*
Vs.	*
	*
NANCY LAMADRID ALVAREZ	*LIQUIDATION OF
	*INHERITED ASSETS

****

MINUTES

The parties inform that the controversies within this case are as follows:

The main controversy is the objection to the Will due to the alleged incompetence of the constituent at the time that she issued same.

Since the parties have considered that scheduling of the conference is premature, the same is resheduled for **March 27th of** 1996, at 9:00 a.m.

Defendant Nancy Lamadrid Alvarez shall file a budget with income and expenses relating to the management of the property, within the previously granted 15 day term.

Attorney Héctor Colón Cruz indicates that he shall be out of Puerto Rico from December 18th of 1995 to January 17th of 1996.

It is informed that attorney Montañez Delerme contacted

the Court to inform us to excuse his non-appearance, since the hearing of a case he was litigating in Bayamón extended beyond 10:00 a.m., time in which the captioned case was scheduled for.

Notify with copy this 27th of December of 1995.
Att. Héctor A. Colón Cruz - P.O. Box 13282, San Juan, Puerto Rico 00908-3282
Att. rafael A. Oliveras López de Victoria
422 Agueybaná Street, Interior
San Juan, P.R. 00918
Att. Emilio A. Montañez Delerme
P.O. Box 6645, San Juan, P.R. 00914-6645
Schedule: 10:20 a.m. - 11:10 a.m.

Minutes Volume No._____Marshall'sName:

MIGUEL A. SEIJO

Judge's Name: WILFREDO ALICEA LOPEZ Certified by: PAULITA SANTIAGO

Secretary

Court Reporte's Name: IN CHAMBERS

LIZZETTE CORTES For:

Assistant Secretary

Date: December 15th, 1995

116pa

COMMONWEALTH OF PUERTO RICO
TRIAL COURT
SAN JUAN SUPERIOR COURT

ERNESTO ALVAREZ LAZZARINI,et als.	* CIVIL
	* NO.KAC
	* 95-1036
Plaintiffs	* Subj:
	* Settlement of
Vs.	* of Inherited
	* Assets
NANCY LAMADRID ALVAREZ, et als.	*
	*
Defendants	*

****

MOTION IN THE INTEREST OF SELLING OF SOLE IMMOVABLE PROPERTY

TO THE HONORABLE COURT:

Comes now co-defendant and counter-plaintiff Teresa Lamadrid Alvarez through her undersigning attorney, and to this Honorable Court very respectfully states, alleges and prays:

1. That the asset composed of a three story concrete building, located at 1818 Loíza Street in Santurce, Puerto Rico belonging to the estate of Mrs. Delia Esther Alvarez Lazzarini, is the sole inmovable property subject to being divided amongst said estate.

2. That the Honorable Court, responding to a unanimous request by the parties, provided that an appraisal of same be conducted. Same was carried out by Engineer/Appraiser Jaime Insern Piñero, whose report is on file.

3. That the parties have stated that, irrespective of the results of the litigation, no assets whatsoever would remain undivided.

4. That the above stated circumstance does not justify that said inmovable property be kept in a state of non-division, therefore it is proper that same be sold, and the yield deposited at the Honorable Court.

5. That the following brokerage firms are sugested, so that the Honorable Court assign whichever one it deems prudent, to carry out the suggested sale:

   a. Isla del Coquí - 651 San Patricio Ave.-Tel. 781-3112

   b. Tiri Real Estate - 9 Alejandrino, Guaynabo 720-1616

   c. Century 21 - 1603 Loíza Street, Sant. 728-6124

WHEREFORE, it is requested that the Honorable Court take notice of that indicated above, and as result therein, order the sale of the previously stated inmovable property, retaining the yield from said sale, until definite completion of the litigation.

In San Juan, Puerto Rico this 7th of March of 1996.

I CERTIFY: to have sent a true and correct copy of the present writ to:

Att. Emilio Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Rafael A. López de Victoria, #422 Agueybaná Street, Hato Rey, Puerto Rico 00918

(signed)

HECTOR A. COLON CRUZ
Box 13282
San Juan, Puerto Rico 00908
Bar Assoc. # 2090
Tel: 724-1889

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
TRIAL COURT

ALVAREZ LAZZARINI, ERNESTO	*	
	*	
PLAINTIFF	*	CASE NO.KAC95-1036
	*	DIV. 0803
VS.	*	
	*	
LAMADRID LAZZARINI, NANCY	*	CIVIL SUIT
DEFENDANT	*	SUBJ: OR CHARGE
	*	

****

ATT. RAFAEL A. LOPEZ DE VICTORIA
422 AGUEYBANA STREET, INTERIOR
SAN JUAN, PR 00918

N O T I C E

I CERTIFY THAT IN RELATION TO A MOTION REQUESTING ORDER DATED _____ MARCH 14TH OF 1996 THE COURT ISSUED THE FOLLOWING QUOTED ORDER:

> HAVING CONSIDERED THE MOTION THE COURT GRANTS SAID REQUEST. SALE SHALL BE CARRIED OUT THROUGH THE AUSPICES OF CENTURY 21 BROKERAGE FIRM, WITHIN A TERM OF FOUR MONTHS".

SGD. WILFREDO ALICE LOPEZ

JUDGE

I FURTHER CERTIFY THAT ON THIS SAME DATE I HAVE MAILED A COPY OF THIS NOTICE TO THE FOLLOWING PERSONS TO THEIR ADDRESSES OF RECORD, HAVING FILED A COPY OF THIS NOTICE INTO THE RECORD ON THIS SAME DATE.

COLON CRUZ, HECTOR
PO BOX 13282
SAN JUAN, PR
00908-3282
MONTANEZ DELERME, EMILIO A.
PO BOX 6645
SAN JUAN, PR 00914-6645
ENG. JAIME ISERN PINEIRO (APPRAISER)
PO BOX 70359
SAN JUAN, PR 00921

SAN JUAN, PUERTO RICO, THIS 12TH OF MARCH OF 1996

PAULITA SANTIAGO CARTAGENA

_____

SECRETARY

(signed)

FOR: MARITZA ROSA LOZADA

_____

ASSISTANT SECRETARY

C.A.T. 750 - NOTICE OF ORDERS AND RULINGS

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
TRIAL COURT
San Juan Superior Court

ERNESTO ALVAREZ LAZZARINI	*	*Civil No. KAC95-1036
	*	
Plaintiff	*	
	*	SUBJ:
Vs.	*	
	*	
NANCY LAMADRID LAZZARINI	*	SETTLEMENT OF
	*	COMMUNITY
Defendant	*	PROPERTY
	*	

****

MINUTES

Appearing at the pre-trial hearing are attorneys Emilio A. Montañez Delerme representing the plaintiffs; Rafael A. Oliveras López de Victoria representing the defendant, and attorney Héctor A. Colón Cruz representing Teresita Lamadrid.

In a meeting held in chambers, the court ruled as follows:

The plaintiff indicates that within the report provided by manager Nancy Lamadrid, documents in support of same were not provided. Defendant indicates that the documents are voluminous. The defendant shall deposit said documents at "Fast Printing" to photocopy - at her own cost - whichever the defendant indicates; being ruled that said

expenses are reimburseable from those funds deposited at the Court, charged to the inherited assets.

It is noted that on April 19th of 1996, the defendant will take a deposition at the offices of attorney López de Victoria at 2:00 p.m. in the afternoon. On April 26th of 1996, the plaintiff will take a deposition of co-defendant Teresita Lamadrid, at 2:00 p.m. in the afternoon.

The procedure to contract the "Century" real estate firm is temporarily suspended, and attorney Colón Cruz will contact said firm as to inform them about the suspension.

Attorney Montañez Delerme informs that Mr. José Benítez has stated that he has a right to an option over the inmovable property object of the inheritable estate; to said effect, he shall forward a letter aauthorized by all parties, requesting proof of said right, and providing a time period of no more than 5 days to produce same.

The parties have agreed that of the $30,000.00 in funds consigned, $27,000.00 shall be deposited into a savings account with the highest available interest rate, and the remainder shall be leftover to pay for the estate's expenses.

Certified:

For: PAULITA SANTIAGO

Assitant Secretary

Date: April 10th, 1996

COMMONWEALTH OF PUERTO RICO
TRIAL COURT
SAN JUAN SUPERIOR

MINUTES

Hereby the court orders that the stipulated rents be deposited of which we leave in effect the same and both parties examine the said report of income and expenses with final tabulated orders from the court and it be so orders if necessary.

It is hereby stipulated to the plaintiff a grace period of 20 days in order to present your constitutional rights. If not such is done the rights have be forfeit and your rights are taken as such resigned.

The hereby conference is to be resolve and dated on 13 of June 1996, at 9:00 A.M. morning.

Notify. copy 10 of April, 1996.
Deposition taken A: Ernesto Alvarez Lazzarini
Today Thursday 22 of August 1996, at the residence of Mr. Ernesto Alvarez Lazzarini 104 Las Palomas Street, Santurce, Puerto Rico 00911.

Attorney Emilio Montañez.
We are going to speculate.
We are not going with any speculations.
He said he does not remember.

Q. Listen, I make the questions, if you want to object then you would object them in your days or time.)

Attorney Emilio Montañez

You are not going to speculate — No.

Speculate questions.

Q. No, I am not giving any speculative questions If you have not given me the commence.

A. No swar. Nothing, nothing, nothing.

Q. Okay. Where you in an occasion met: with Mrs. Teresa, Mrs. Lillian o Mrs. Nancy at any lawyers office in relation with the mentioned will or testament f which said mentioned is of this case.

A. I don't remember.

Attorney Emilio Montañez

You said again you did not remember.

Q. You don't remember but you could have been there Why?

A. With all respect I do not remember nothing - nothing!

Q. You don't know.

A. I do not know of tl about the will none the less.

Q. Mr. Ernesto, I asked you a question. Did you see a psychiatrist you told me no.

A. Well, Psychiatry

Q. Do you go.

A. ... no, no.

Q. Are you save mentally? You?

A. No, they are not reading my mind. I am attended and treated for example, my heart.

Attorney Emilio Montañez:

He does not understood.

Q. You did not understood. I am going to repeat. Thank you colleague. If you are mentally . Are you mentally stable or do you have problems.

A. No - I am mentally okay.)

Q. Okay - what is wrong?

A. I forget many things, many things; I forget and their at times is a in my brain which makes me forget things, ,but I can not say anything else because, really, I can not at many times I can not explain such not event the doctors.

Q. Okay. But when or what years did you last see Mrs. Delia tell me, now was Mrs. Delia with you.

A. With me? No Mrs. Delia with me. The short times I went there she understood me in a way well being and she was always looking after me what every move I made. She will call Lillian who even was there to check on me when I went to the bathroom or something, upon walking up the staircase.

126pa

SWORN STATEMENT

I Nancy Lamadrid Alvarez married of legal age with Social Security # 581-50-6025 and residence at Rio Piedras, P. R. I hereby swear and declare the following:

1. That the present circumstances before stated are true and correct.

2. At the beginning of March 1989 and during the rest of the year 1989. I notice that the dosage my mother Mrs. Delia Alvarez was under severe mayor depression, she made errors did not have any righfeel of thinking, she was fragile in her order of thinking and at time forgot things.

3. At a deposition taken of my sister Teresa Lamadrid Alvarez, she admits that she prescribes prescription were taken away from her mother at the beginning of March or four weeks prior to the will and that she continue bringing to her mother to the psychiatry when she was not relieve from any medical condition or mental state.

4. That this declaration, sworn is done in good will and voluntary.

At San Juan, Puerto Rico 20 of November 1996.

Q. Did she required attention while she was in the hospital, someone to stay with her during the night?

A. I used to stay with he at the hospital all night.

Q. The time she needed to stay hospitalized did you say all the nights?

A. I stayed with her every night.

Q. How many visits? Do you remember, did your mother visited Dr. Lacomba?

A. How many. I do not know.

Q. Don't you have and idea — any idea?

A. But she started on August 1988 when, he closed his office March 1989 was that she time. but how many visits. . .

Q. You do not know

A. I do not know.

Q. and how many?

A. more or less the visits where like monthly.

Q. it was one a month, true?

A. they were like monthly.

Q. Very well, we can calculate and Dr. Franceschini?

A. She visited him since January 1992.

Q. January of 1992

A. Well, there was a time she did not go over to see any psychiatrist. what she had was a depression

A. Depression

Q. and was it for obey treated her

A. yes, yes

Q. Where there any mental overlaps re severe that may dies colo her way of thinking?

A. No

Q. and in what way can it this ta her capacity?

A. No-

Q. I have no further questions

Direct cross exam by: Attorney Oliveras.

Attorney Oliveras,

Q. Yes with relation to what my colleague last said "did you in any way saw that she did not want the psychiatrist medicine?

A. Well. . .

Attorney Colón Cruz

Pardon I did not hear the question?

Q. No the question . . .

Q. At any time did she refuse the. . .

Q. the psychiatrist med treatment.

Attorney Colón Cruz!the druggist

Q. That is it

Attorney Colón Cruz pharmacy, I do not know

Q. Psychopharmacy

A. psychiatrist

Q. Forgive me, I am tired, don't you know it later. at may a times she goes with people who are really. psychiatrist in treatment

A. But I will state what in terms - really. She will take then. She will take these medications - We will leave them and she will later will take them or drink them.

Q. But then Dr. Lacomba was treating her morally of 1989?

A. yes, yes, yes

Q. From 1989 and under up to 1992 was she. . .

A. She March. . . past March or at the end of March more or less she termite with Dr. Lacomba

Q. Are you looking for another

A. Why did he closed the office? and she was without treatment until 1992.

Q. And the prescriptions how did she. . . or why are those antidepressants and does she need a prescription

A. exactly, exactly it was word 1989.

Q. How were they given

A. Well I can imagine that they were without anything

Q. without nothing?

A. without anything. there was a time when we. . . when she - problems her liver it because cancerous. She called Dr. Franceschini to re a to away

all of her medications and they suspended all of them.

Yes that is were it off the most to all.

Q. Yes - there is were it affects

A. All of them, - yes. he said that she had problems with her liver. That it was going to continue doing her harm. All of her medicines were taken or suspended by the psychiatrist and she went alone fine without the medications.

Q. and Pamelor with. . .

A. he Pamelor and. . .

Q. 10 and 25mg. were given by Dr. Franchescini to take?

A. She - - yes 10 twice during the day and at times one, and at night 25mg before going to ed.

Q. Okay those medications given by Dr. Lacomba until March of 1989 — up to this time did she take the medications?

A. Well up to and including this time and she stay without then for various months without treatment.

Q. A few months, no around two (2) year?

A. well that is why she stayed without treatment and that is why I went to look for other doctor. . .

Q. and how do you resolve or do with the problem?

A. Nothing

Q. Maybe she had a major depression?

A. She what to she had and she continue for a time. There without anything. And then I took her to Dr. Franceschini and he was brought again to take the same medicines — and I would tell you that she began with the same symptoms. We call Dr. Perdomo or he called Dr. Perdomo asked me who was her attending doctor — when I told him. The doctor stated that the medicines prescribe should not be taken, and then — I said if you want I will call the Doctor (Franchescini and you can talk with him) I did call Dr. Franceschini, at the office and Dr. Perdomo talked with him. They both Doctors agree to let go, and not to continue taking the medicines—she began to feel much better.

Q. Well I do not have any further questions — colleague

Attorney Colón Cruz

No further questions

Q. Yes if there any further questions — otherwise this depositions and generally I never do it that way or in this way. I can ask my colleague to leave this open for further. maybe there will be the opportunity for a second deposition generally speaking I do not do it, because it might cost be too costly, but I have done it in various cases.

Does my colleague have any objection or inconvenience?

Attorney Colón Cruz

None, no inconvenience, no,

Q. In this case there is. . .

Attorney Colón Cruz

And I except my colleague to have to in converse in this matter. .

COMMONWEALTH OF PUERTO RICO
TRIAL COURT
SAN JUAN SUPERIOR

ERNESTO ALVAREZ LAZZARINI	*	CIVILNO.KAC95-1036
	*	
Plaintiff	*	DIV: 803
	*	
Vs.	*	SUBJ: SETTLEMENT OF
	*	INHERITED ASSETS
NANCY LAMADRID, ET ALS	*	
	*	
Defendants	*	

****

MOTION RELATING TO MINUTES AND REPLY TO MOTION BY THIRD PARTY DEFENDANT

TO THE HONORABLE COURT:

COMES NOW co-defendant **Nancy Lamadrid Alvarez,** through her undersigning attorney, and respectfullyt State, Allege and Pray:

1. In this present complaint, defendant Teresa Lamadrid intends to convince this Honorable Court that co-defendant Nancy Lamadrid had agreed to sale of the building object of this case, to the leaseholder. See

motion titled "Motion Requesting Party to Comply with Court Order".

2. We would respectfully wish to point out that co-defendant Nancy Lamadrid never expressed herself as to said sale to the leaseholder, for these three reasons:

   a. At the time of the hearing on April 10th of 1996, she did not have the lease contract at hand.

   b. She had not perused the expert's appraisal report and had not expressed herself as to same;

   c. Nancy Lamadrid never manifested herself to the Honorable Court in relation to this personally either, as so occurs in December of 1995; nor through this undersignor, who neither had the elements to judge and resolve said situation.

Given this, the undersignor surmises that the request pointed out by plaintiff Teresa Lamadrid is improper since there has been no consent from the herein appearing party.

We would like to point out that on the day the dposition is taken, co-plaintiff Lillian Alvarez, colleague Emilio Montañez gives us a document so that Mrs. Nancy Lamadrid, who was present, proceed to sign it. On several occasions during that afternoon they demanded, in a hurried manner, that said document be signed.

We indicated to said colleague to give us a period of time as to meet with my retainer in a cool and collected manner, so she could ponder the extension of the above stated document. The next thing we received was the above stated Motion from colleague Héctor Colón Cruz.

In view of this situation, we indicated that Mrs. Nancy Lamadrid was interested in purchasing said inmovable property and was carrying out the neceesary steps to finance same.

WHEREFORE, we respectfully request that this Honorable Court DENY the motion titled "MOTION REQUESTING PARTY TO COMPLY WITH COURT ORDER" since there has not been any clear, expressed and unequivocal consent by co-defendant Nancy Lamadrid.

RESPECTFULLY SUBMITTED

I CERTIFY: To have mailed copy of the above document to; Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, Puerto Rico 00908.

In San Juan, Puerto Rico this 21st of May of 1996.

(signed)
RAFAEL A. OLIVERAS LOPEZ DE VICTORIA
422 AGUEYBANA STREET
HATO REY, P.R. 00918
TELEPHONE: 764-3280
BAR # 5588

COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
GENERAL COURT OF JUSTICE
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	*CASE NO.
	* KLCE9600965
	*
	*
Plaintiffs-Appellees	*
	*
vs.	* REF. NO.
	* KAC95-1036
NANCY LAMADRID ALVAREZ	*
TERESA LAMADRID ALVAREZ	* SUBJ:CERTIORARI
	*
Defendants-Appellants	*
	*

****

NOTICE

I CERTIFY THAT ON DATE OF OCTOBER 23rd OF 1996 IN RELATION TO THE CAPTIONED CASE, THE COURT RENDERED THE FOLLOWING ATTACHED DECISION.

I FURTHER CERTIFY THAT ON THIS DATE, I HAVE FORWARDED A COPY OF THIS NOTIFICATION, BY MAIL, TO THE FOLLOWING PERSONS TO THEIR STATED ADDRESSES, HAVING ON SAME DATE FILED A

COPY OF THIS SAME IN THIS CASE. ATT. EMILIO A. MONTANEZ DELERME - P.O. BOX 6645, SAN JUAN PR 00914-6645; ATT. HECTOR A. COLON CRUZ - P.O. BOX 12382 SAN JUAN P.R 00908; ATT. RAFAEL A. OLIVERAS LOPEZ DE VICTORIA - 422 AGUEYBANA ST. HATO REY, P.R. 00919; ATT. LYDIA RIVERA MATOS - DEPARTMENT OF JUSTICE - P.O. BOX 90212 - SAN JUAN, P.R. 00902; MRS. CARMEN LOPEZ CRUZ - SECRETARY GENERAL - TRIAL COURT -; SAN JUAN SUPERIOR COURT - P.O. BOX 190887 - SAN JUAN, P.R. 00919-0887.

IN SAN JUAN, PUERTO RICO THIS **4TH OF NOVEMBER OF 1996.**

AIDA ILEANA OQUENDO GRAULAU
SECRETARY GENERAL

(signature)

FOR: D. GOMEZ
ASSISTANT COURT SECRETARY I

COMMONWEALTH OF PUERTO RICO
IN THE CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI LILLIAN ALVAREZ LAZZARINI	* CERTIORARI * originating from * the Trial Court, * Superior Court of * San Juan * KLCE9600965 *
Plaintiffs-Appellees	
Vs.	
NANCY ALVAREZ LAMADRID TERESA ALVAREZ LAMADRID	*Case: KAC95-1036 *
Defendants-Appellants	*

****

Panel composed by its president, Judge Alfonso de Cumpiano and Judges Miranda de Hostos and Gimenez-Muñoz, Judge Presiding

RESOLUTION

In San Juan, Puerto Rico this 23rd day of October of 1996.

I. During the liquidation process of inherited assets, the Trial Court issued an order for the sale of an immovable asset to a third party and co-

heiress Nancy KLCE-9600965 Lamadrid Alvarez is now questioning its validity by means of this petition.

II. As it appears from the documents enclosed by the Appellant, and attached to this petition as an appendix therein, on March 30th of 1994, Mrs. Delia Alvarez Lazzarini passes away. On the date of said constituent's death, her two only daughters - Nancy and Teresa Lamadrid Alvarez - were drafted as her universal heiresses.

Subsequently, on August 14th of 1996, and as to obtain liquidation of the inherited assets, the constituent's brother and sister - Ernesto and Lillian Alvarez Lazzarini - filed a complaint indicating that they were coheirs of the freely disposable third (1) and specifically pointed out that the immovable property located at #1818 Loíza Street of Santurce Ward in the Municipality of San Juan, Puerto Rico, KLCE 9600965 was part of the inheritable estate. Coheiress Nancy Lamadrid Alvarez, in her reply to the complaint indicated that the Will issued by her mother was void and ineffective.

Things being as they were, in a meeting held in chambers on December 15th of 1995 in which the parties attended, by stipulation the Trial Court orders an appraisal of the above stated building and assigns an appraiser for purposes of selling the immovable property. As stated within the Court's Minutes on said date, none of the par-

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(1) See COMMON NONCUPATIVE WILL:, Deed Number Thirty Two, issued before Carmen Teresa Agudo Loubriel in San Juan, Puerto Rico on March 30th of 1989, in which Nancy and Teresa Lamadrid Alvarez were instituted as heiresses, and the freely disposable third was left for brother and sister Ernest and Lillian Alvarez Lazzarini.

ties stated any objection to the Order, nor indicated any interest in purchasing said property.

On March 7th of 1996, and after having received the appraiser's report, co-defendant Teresa Lamadrid Alvarez filed a writ titled **MOTION IN INTEREST OF ORDER TO SELL THE SOLE Immovable PROPERTY.** It was stated in this motion "that the parties have stated that irrespective of the result of the litigation, no asset shall remain indiviso" and that "it is unjustified that said immovable (property) be kept undivided, accordingly, same should be sold, and the product therein deposited at the Honorable Court".

The Trial Court through Order dated March 14th of 1996, ordered that the sale be carried out, the monies be deposited at the Court, and for said purposes designated a real estate broker. Appellant Nancy Lamadrid Alvarez did not file any objection to said order, nor stated any interest in acquiring said property.

On April 10th of 1996, in a meeting in chambers with the parties, the Trial Court voided assignment of a real estate broker after receiving information that the property leaseholder had stated that he had a right to an option to purchase said immovable property. To said effects, the parties agreed to forward a letter to the leaseholder so he could produce evidence indicative of the claimed right to an option. (2) Just as on previous occasions, the appellant did not state any interest in acquiring the immovable, and did not place any objection to the advised action.

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2) Attached to the Writ is the LEASE CONTRACT in which Delia Esther Alvarez widow of Lamadrid, in her personal capacity and as executrix for the Estate of José Lamadrid Capó, transfers in lease the first level of the inmovable property, in which the so-called option to purchase appears within its fifteenth clause.

Through motion dated April 25th of 1996, co-defendant Teresa Lamadrid Alvarez requested that it be ordered that the order to sell be complied with "since the existence of an apparent commitment towards the leaseholder had been proven a document for an option to purchase was drafted, which appellant Nancy Lamadrid Alvarez had refused to sign". (3) As to this request, the court granted the parties **5 days** to express themselves, under warning that if they did not do so, the Court would grant the request. On May 4th of 1996, Teresa Lamadrid filed a motion requesting that Nancy Lamadrid Alvarez be ordered to sign the document of option, or in its defect, to assign the Marshall to sign on her behalf.

On May 23rd of 1996, appellant Nancy Lamadrid Alvarez filed a MOTION RELATING TO THE MINUTES AND REPLY TO MOTION FROM THIRD PARTY DEFENDANT stating, among other things, that she had not given opinion as to a sale to the leaseholder, because she did not have the lease contract at her disposal at the time of the hearing of April 10th of 1996; that she had not reviewed the appraisal report; and finally, that said request was contrary to Law , since there was not consent to sell on her part. In a writ from a subsequent date and titled MOTION IN RESPONSE, Nancy Lamadrid Alvarez stated that she had a right to the legal joint co-ownership redemption right to acquire the property under controversy.

On date of August 23rd the Trial Court agreed to the request to sell to the leaseholder, and ordered co-defendant

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(3) Appears attached to the writ for OPTION TO PURCHASE CONTRACT of April 1996, signed by the parties, excepting Nancy Lamadrid Alvarez.

and appellant to "...sign the option contract within five (5) days, or otherwise the Marshall shall be ordered to do so for her".

Disagreeing with what was ordered, coheiress Nancy Lamadrid Alvarez filed this present Writ of *Certiorari* and indicates the existence of four errors. She states that the Trial Court errs by permitting that "a third party alient to the litigation intervenes without the Court's permission, in a matter that holds no relevance to the actions being resolved in same"; errs by not scheduling an adjudicative hearing as to a bargaining and sale of an asset, without even requesting permission from one of the parties affected therein; that it determined that appellant Nancy Lamadrid Alvarez as well as her heirs, are third parties; and upon deciding that clause fifteen of the Lease Contract is an option to purchase.

II

The requested remedy is Denied due to the following stated considerations:

There is no document attached to the appendix filed with the Writ, from which the Trial Court could surmise that the leaseholder of the immovable property had been allowed to intervene in this litigation. The reference about the leaseholder that is made in some allegations points to compliance with a lease contract and the so-called option to purchase clause, which was validated by the Trial Court, since it interprets that there had been agreement and consent by all parties to it.

It also surfaces from several of the Minutes which accompanied the Writ, that the Trial Court held not just one, but several hearings to take into consideration the petition to sell the immovable property, without even hearing a

murmur from the appellant. Trial court held three hearings, and in all of them took into consideration the request for the sale of the immovable property, so ordered it, and it is not until four months after the first order to sell that the appellant claimed to have a right to co-joint legal right to redemption as to acquire said property. That is, the case file shows that in each occasion in which the sale of the property was raised, appellant Nancy Lamadrid Alvarez was duly represented. (4)

Through what has been stated, it is clear that the doctrine of self action closes the door to the appellant as to question a sale consented to and ordered under the Law of Special Procedures, 32 L.P.R.A., sec. 2431.

In respect to the claim towards a right to joint ownership right of redemption, it is proper that we refer to Article 1412 of the Civil Code, 31 L.P.R.A., sec. 3922, to convince ourselves of its inapplicability towards the facts at hand.

Article 1412 directs that:

"**The co-owner of a thing in common can make** use of the right of redemption, in that case in which the shares of all the other co-owners or of any one of them is sold to an extraneous party. When two or more co-proprietors wish to make use of the right to redemption, they may only do so prorated, in relation to the situation that they occupy within said common thing."

In Rivera Esbrí v. Archeval, 83 D.P.R. 604 (1961), our Supreme Court determined that whenever there exists a

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(4)Appellant has not questioned her mother's faculty **as executrix, in granting said Lease Contract.**

right to redemption between coheirs, whereby a one month period is granted (Article 1020), or whenever it refers to a redemptive right between joint co-owners, this is a course of action that must be exercised within nine days (Article 1414) after being recorded at the Registrar, or in its defect, whenever the retractor has obtained knowledge about said sale.

As far as the nature of both redemptive rights, Rivera Esbrí, supra, established that inheritable subrogation, also called redemptive rights of coheirs, is a type of co-joint owner right to redemption which displays a variant, due to the nature of the object over which the joint ownership incides. In the inheritable subrogation the object is the heir's share or cuota within all of the assets which are part of the estate, whereas in the right to redemption of co-owners, the object is a determinate share of a proindiviso commonly owned asset.

In Benítez v. Díaz, 28 D.P.R. 673 (1928), the Supreme Court held as to said effects:

"Whenever it does not relate to the backdating of inherited rights sold by a heir, but rather about a proprietary participation in a specific estate owned in common, Section 2886 of this Title - which regulates inheritable rights - would not be applicable, but rather this section, which regulates co-joint redemptive ones."

From the above it is transparently clear that the redemptive right alluded to the petitioner is premature, because this can only take place after effecting a sale of a quota or a share, event which has not taken place in the instant case.

In consideration of what has been stated, issuance of

the requested Writ is thus Denied.

So agreed to by the Court, and certified to the Secretary General.

(signed)

Aida I. Oquendo Graulau
Secretary General

COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	* CASE NO.
LILLIAN ALVAREZ LAZZARINI	* KLCE 9600965
	*
Plaintiffs-Appellees	*
	*
Vs.	*
	*
NANCY LAMADRID ALVAREZ	*
	*
Defendant-Appellant	*
	*
TERESA LAMADRID ALVAREZ	*
	*
Defendant-Appellee	*
	*

****

MOTION REQUESTING RECONSIDERATION

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San Juan, Puerto Rico 00914-6645

Att. Hector A. Colón Cruz
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Att. Lydia Rivera Matos
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BAR # 5588

COMMONWEALTH OF PUERTO RICO
CIRCUIT COURT OF APPEALS
SAN JUAN REGIONAL CIRCUIT

ERNESTO ALVAREZ LAZZARINI	* CASE NO.
LILLIAN ALVAREZ LAZZARINI	* KLCE 9600965
	*
Plaintiffs-Appellees	*
	*
Vs.	*
	*
NANCY LAMADRID ALVAREZ	*
	*
Defedant-Appellant	*
	*
TERESA LAMADRID ALVAREZ	*
	*
Defendant-Appellee	*
	*

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MOTION REQUESTING RECONSIDERATION

TO THE HONORABLE COURT:

COMES NOW co-defendant-appellant Nancy Lamadrid Alvarez through her undersigner legal representative, and very respectfully states, alleges and prays:

1. The Court rendered a Ruling in this case, notifying same on November 4th of 1996.

2. Since November the 19th was a partial holiday,

Courts were not open; the last day for filing of this writ would be November 20th of 1996

3. We respectfully request reconsideration on the following grounds:

I. ERRONEOUS INTERPRETATION OF PROCEDURAL AND SUBSTANTIVE FACTS

Having the Ruling - jointly with numerous documents from the file - been examined by the Honorable Court, there exist the following errors in the interpretation given by the Court a Quo:

A. The improper interpretation surfaces within the first "Status conference" carried out on December 15th of 1995. (Attachment A).

B. This Honorable Court, as well as the plaintiffs and co-defendant Teresa Lamadrid Alvarez have wished to point out that there was a sales agreement, grounded upon said hearing.

C. This is **incorrect.** An examination of the Minutes for that date reveals that on said date **the only thing discussed was the property appraisal** and with the sole purpose of complying with jurisprudential requirements germane to the case, and which are the following:

a. Inventory
b. Appraisal
c. Distribution
d. Liquidation

On said date it was determined that it would be advantageous to know the value of the building object of this litigation, for its distribution and/or liquidation therein.

D. Subsequent to this event, during the hearing of March 7th of this year, co-defendant Teresa Lamadrid files a writ requesting that the immovable property (the building) object of this litigation, be sold.

Said Motion was decided in an extremely short period of time of only seven (7) days, without the defendant Mrs. Nancy Lamadrid being able to oppose same, or being afforded the opportunity to oppose it. Note that the herein appearing party Mrs. Nancy Lamadrid, never was afforded the opportunity to oppose, since the Court never granted her a time frame in reference to said request. **(Attachment B and C).**

E. On April 10th the hearing is held; this undersignor points out to the Honorable Court that he was not in a position to decide as to the sale, since he had to consult with his retainer Nancy Lamadrid Alvarez.

During said period this undersignor had received copy of the appraisal and did not have it in hand, as to make a hasty determination such as the other parties in this litigation have wished to do. Neither did we have the lease contract.

We stated in chambers to the Honorable Court, that it was impossible to make a decision as to any sale, but said subject was left open when both attorneys - Att. Montañez Delerme and Att. Héctor Colón indicated through a Motion,

that they were withdrawing the real estate broker, without providing any explanation therein.

F. Later on during that same hearing appears the presence of the leaseholder, when colleague Emilio A. Montañez Lederme points out that the leaseholder was willing to purchase the building in accordance to the lease contract. At that point in time, April 10th of 1996, we indicate to the Court that this uindersignor did not know about the alleged option to purchase that Mr. José Benítez had. In view of this, colleague Att. A. Montañez Lederme was going to verify the leaseholder interest in purchasing. **See Minutes from which the following copied and stated:**

"Attorney Montañez Delerme informs that Mr. José Benítez has stated that he has an right to an option over the immovable property object of the inherited asset; to said effects, he shall forward a letter **authorized by all parties** demanding proof of said right, and providing him a term of no more than 5 days to so produce same". **(Attachment D)**

G. On date of May 20th of 1996, leaseholder Mr. José Benítez states his intention to purchase in accordance with the alleged option to purchase. Immediately on May the 23rd Mrs. Nancy Lamadrid responds indicating her objection to any sale, since there existed no option to purchase within the lease contract.

H. On date of August 23rd of 1966, the Honorable Court erroneously orders that the property be sold,

without mediating any consent therein. In view of this procedural situation which took place before Honorable Judge Wilfredo Alicea, defendant Teresa Lamadrid Alvarez and the plaintiff have wished to adduce that the herein appearing party had given her consent in an alleged sale or option to sell contract (clause number fifteen [15]). A detailed examination of those documents reveal that Mrs. Nancy Lamadrid nor her legal representative **never provided their consent as to the sale of said immovable property.**

I. It is our understanding that the Honorable Court a quo has acted ultra vires, due to the following:

a. The inferior Court **never taped the procedures** having placed Mrs. Nancy Lamadrid under oath, as for her to state her consent in an express and unequivocal manner.

b. The hearings were carried out in chambers, in which the Court did not protect itself in determining the correctness of the procedures.

c. The procedures are accelerated in an extraordinary manner, in less than seven (7) days the Court grants a request, without the remaining parties being able to express themselves. This behavior violates due process of Law.

d. The Court adjudicates the judicial sale of an asset without holding a hearing, contrary to **Connecticut vs. Dohner, No. 90-143), opinion of June 6th of 1991, 59 LN 1587**, which requires a hearing as to ad-

judicate an asset. WE THEN ASK OURSELVES, in view of all this, did Mrs. Nancy Lamadrid render her consent? **NO.**

J. It is a juridical fact beknownst to all Notaries in this country, that the consent for the sale of an immovable property must **be express and without any doubt whatsoever;** said consent must be expressly made **1587,** which requires a hearing as to adjudicate an asset. WE THUS ASK OURSELVES, in view of all the above, did Mrs. Nancy Lamadrid render her consent? **NO**.

J. It is a juridical fact beknownst to all notaries in this country, that consent for the sale of an immovable property **must be express and without any doubt whatsoever**; said consent must be expressly made in a public document.

This Honorable Court has been shown a **private document, which is not even an authentic document, IS NOT signed** by a Notary, and we refer to Attachment VI of the writ **by colleague Emilio Montañez Delerme.** This writ is titled "Contract for Option to Purchase". To further emphasize about said situation which is **VILE DECEPTION, the document thus** presented lack the following: (Attachment E)

a. Affidavit number
b. Notary signature
c. Notary Seal
d. Date
e. And even worse, **THERE IS NO OBJECT, SINCE NO PRICE IS STATED WITHIN CLAUSE FIFTEEN (15).**

These serious anomalies must not be tolerated by this Honorable Court because it would be stimulating **a fraud**.

K. We would also like to point out that the Honorable Court **a Quo,** has not issued a Ruling, and this brings forth the following three (3) additional issues, infra.

II. INCOMPETENCE OF MR. ERNESTO ALVAREZ LAZZARINI

In a deposition (Attachment F) taken by this undersignor, co-plaintiff Ernesto Alvarez Lazzarini manifests a serious mental condition, where a greater portion of the questions asked point to him not knowing them. This co-plaintiff manifested a total uncertainty about the case to which he is a party. His wife indicated to us that he is not mentally well, and this undersignor suspects that he is suffering from a severe emotional condition, which disabled him from consenting. During one question that was asked he remained as if catatonic, and colleague attorney Montañez-Lederme tried to intervene, posing several leading questions. For said effect we are submitting a copy of the Deposition. We then ask ourselves: Does the signature allegedly given in the voided contract (for lack of price) actually belong to Ernesto Alvarez Lazzarini, given his serious mental condition?

We have grave doubts: Can co-plaintiff Ernesto Alvarez Lazzarini consent to something that is being litigated?

III. INVALIDITY OF THE WILL:

We respectfully interpret that from the allegations within

the complaint in this case , the legal validity of the Will issued by the constituent on May 30th of 1989, is being contested. Mrs. Nancy Lamadrid Alvarez indicates to us that the constituent was depressed upon being left totally without her medications by her daughter Teresa Lamadrid Alvarez. This last party admitted under oath that she was the person responsible for the care of her mother, and that she would administer her antidepressant medication on a daily basis. Mrs. Teresa Lamadrid further admits that said medications were discontinued, and that she - Teresa Lamadrid - unilaterally and without the intervention of the testatrix or her doctor, hindered her mother from receiving medical treatment. In is under this act of cruelty towards her mother that Mrs. Delia Alvarez appears before a Notary and signs an authentic document, while being in a depressive state. (**Attachment G and H).**

In view of this situation objecting to the Will, we cannot conclude that the court a quo has ratified a consent to sell from the plaintiffs, since they do not a final and definite in relation to their alleged inheritance share.

In other words, can a court ratify a sale of an inherited share, if the heirs do not have a right which is liquidable, demandable, definite and final? We respectfully submit that the court, a quo, has committed an extremely grave error, upon ratifying a consent to sell, when the person lack a CLEAR and unequivocal right.

This same situation takes place with Mrs. Teresa Lamadrid Alvarez, where this party herein has also questioned her participatory inheritance under constitutional grounds before this Honorable Court, in case KLAN96-01130. (We re-

spectfully request that this Honorable Court remit to same for further understanding therein).

In the stated record for review of a partial sentence, it is offered that in the Will, Teresa Lamadrid Alvarez has a greater discriminatory share versus her sister Nancy Lamadrid Alvarez. In view of this affirmation, consent is not possible either, since it is an uncertain object.

IV. OPTION TO PURCHASE:

We respectfully submit that this court should again re-examine the lease contract's clause 15, whereby there is allegedly an option for bargain and sale. We submit that said option is non-existent, due to the following:

a. There is no price certain.

b. There are no terms.

c. Said clause is a **cautioning**, not an option.

In accordance with that manner in which said clause is drafted, we thus see that it is indispensable that an agreement be reached; and as of this date, same (the agreement) does not exist, due to the above stated reasons, which we will now repeat:

a. Mrs. Nancy Lamadrid has never signed a contract nor consent to a sale.

b. The lower court violated due process of Law upon issuing an order or ruling which is contrary to current law, and in which it fails to protect the parties, by holding an adjudicative hearing, hearing to con-

sent and/or hearing to clarify, in which Mrs. Nancy Lamadrid should appear under oath and in open court (not in chambers), and where her express and unequivocal consent to sell is preserved for posterity. We repeat in its integrity clause fifteen (15) of the lease contract, it states:

"—**FIFTEENTH: If in the future the LANDLORD** were to contemplate selling the site or building where same is located, he shall provide notice of his intention to the LEASEHOLDERS, in case they have an interest in purchasing said immovable property. If this were the case and no agreement is reached, he shall insure that any sale to a third party includes an acknowledgment and acceptance of the current lease by the purchaser, for the term and duration of same. (Emphasis provided)

Note that the intention to sell, that is a warning, is what is given to the leaseholders, **it does not state that it is giving him an option to purchase**. This situation has been fabricated by the plaintiffs, as well as by co-defendant Teresa Lamadrid Alvarez.

PRAYER

In view of said considerations, we respectfully request that this Honorable Court reconsider the ruling issued, voiding same, and after taking into consideration the following issues mentioned in this writ:

a. Error within the procedural and substantive interpretation of the facts;

b. Voidance of the contract for option, for it lacks price certain;

c. Voidance of contract for option, due to the existence of an object uncertain, without its adjudication;

d. Due to the non-existence of a contract for option between the landlord and the leaseholder. Clause fifteen (15) is an increment, not an option, and which requires an agreement therein.

RESPECTFULLY SUBMITTED

I CERTIFY: To have sent a true and correct copy of the foregoing document to: Att. Emilio A. Montañez Delerme, P.P. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, Puerto Rico 00908; Att. Lydia Rivera Matos, Department of Justice, P.O. Box 192, San Juan, P.R. 00902

In San Juan, Puerto Rico this 20th of November of 1996.

(signed)

RAFAEL A. OLIVERAS LÓPEZ DE VICTORIA
#422 AGUEYBANA STREET
HATO REY, P.R. 00918
TEL: 764-3280
BAR # 5588

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
TRIAL COURT
SAN JUAN SUPERIOR COURT

ERNESTO ALVAREZ LAZZARINI	* CIVILNO. * KAC95-1036 *
Plaintiff	* SUBJ: *
Vs.	* *
NANCY LAMADRID ALVAREZ	*LIQUIDATION OF *INHERITED ASSETS

****

MINUTES

Appearing at the contempt hearing are attorney Rafael A. Oliveras López de Victoria representing the defendant, and Attorney Héctor A. Colón Cruz representing co-defendant and countert plaintiff Teresa Lamadrid Alvarez. Also appearing is Mrs. Nancy Lamadrid Alvarez.

In a meeting held in chambers, the court rules as follows:

Through error or omission by the parties, the Name on Nancy Lamadrid Lazzarini has appeared in subsequent writs in this complaint. We draw our attention to those attorneys who have incurred in an error, and that the name is Nancy Lamadrid Alvarez.

After considering the matters pending in this case, the Court orders as follows:

Defendant Nancy Lamadrid Alvarez is granted until December 31st of 1995 to provide a management report, from the time since has been in fact managing her mother's and the estate's assets.

The sum of $30,000.00 will be consigned to the Court within said time frame, and interrogatories served upon co-defendant Nancy Lamadrid Alvarez by the plaintiff shall be replied to. Attorney Rafael Oliveras Lópeza de Victoria is granted a term of 30 days to elaborate and establish the analysis relating to the discrimination.

Appraiser Jaime Insern is designated, by stipulation between the parties, to appraise the building property of the estate, located at 1818 Loíza Street, Santurce, P.R. Said appraiser shall be requested to examine said property and report therein.

For purposes of examininfg said property, he shall contact Mrs. Nancy Lamadrid at telephone number 257-7883.

It shall be noted that the apparaiser's fees shall be paid for from estate's property assets.

The defendant indicates that she proposes to take a deposition from the plaintiff and the physician who had attended the constituent.

For: LIZZETTE CORTES

Assistant Secretary

Date: December 15th, 1996

161pa

COMMONWEALTH OF PUERTO RICO
TRIAL COURT
SAN JUAN SUPERIOR COURT

ERNESTO ALVAREZ LAZZARINI,et als.	* CIVIL
	* NO.KAC
	* 95-1036
Plaintiffs	* Subj:
	* Settlement of
Vs.	* of Inherited
	* Assets
NANCY LAMADRID ALVAREZ, et als.	*
	*
Defendants	*

****

MOTION IN THE INTEREST OF SELLING OF SOLE IMMOVABLE PROPERTY

TO THE HONORABLE COURT:

Comes now co-defendant and counter-plaintiff Teresa Lamadrid Alvarez through her undersigning attorney, and to this Honorable Court very respectfully states, alleges and prays:

1. That the asset composed of a three story concrete building, located at 1818 Loíza Street in Santurce, Puerto Rico belonging to the estate of Mrs. Delia Esther Alvarez Lazzarini, is the sole inmovable property subject to being divided amongst said estate.

2. That the Honorable Court, responding to a unanimous request by the parties, provided that an appraisal of same be conducted. Same was carried out by Engineer/Appraiser Jaime Insern Piñero, whose report is on file.

3. That the parties have stated that, irrespective of the results of the litigation, no assets whatsoever would remain undivided.

4. That the above stated circumstance does not justify that said inmovable property be kept in a state of non-division, therefore it is proper that same be sold, and the yield deposited at the Honorable Court.

5. That the following brokerage firms are sugested, so that the Honorable Court assign whichever one it deems prudent, to carry out the suggested sale:

   a. Isla del Coquí - 651 San Patricio Ave.-Tel. 781-3112

   b. Tiri Real Estate - 9 Alejandrino, Guaynabo 720-1616

   c. Century 21 - 1603 Loíza Street, Sant. 728-6124

WHEREFORE, it is requested that the Honorable Court take notice of that indicated above, and as result therein, order the sale of the previously stated inmovable property, retaining the yield from said sale, until definite completion of the litigation.

In San Juan, Puerto Rico this 7th of March of 1996.

I CERTIFY: to have sent a true and correct copy of the present writ to:

Att. Emilio Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Rafael A. López de Victoria, #422 Agueybaná Street, Hato Rey, Puerto Rico 00918

(signed)

HECTOR A. COLON CRUZ
Box 13282
San Juan, Puerto Rico 00908
Bar Assoc. # 2090
Tel: 724-1889

COMMONWEALTH OF PUERTO RICO
GENERAL TRIAL COURT
TRIAL COURT

ALVAREZ LAZZARINI,ERNESTO	*CASE NO. KAC95-1036	
	*DIV. 0803	
Plaintiff	*	
	*	
Vs.	*	
	*	
NANCY LAMADRID ALVAREZ	*	CIVIL SUIT
	*	SUBJ: OR CHARGE

****

ATT. RAFAEL A. OLIVERAS LOPEZ DE VICTORIA

422 AGUEYBANA ST, INTERIOR

SAN JUAN, PR 00918

NOTICE

I CERTIFY THAT IN RELATION TO A MOTION REQUESTING ORDER DATED _____

MARCH 14TH OF 1996 THE COURT ISSUED THE FOLLOWING QUOTED ORDER:

HAVING CONSIDERED THE MOTION THE COURT GRANTS SAID REQUEST. SALE SHALL BE CARRIED OUT THROUGH THE AUSPICES OF CENTURY 21 BROKERAGE FIRM, WITHIN A TERM OF FOUR MONTHS".

SIGNED.

WILFREDO ALICEA LOPEZ

JUDGE

I FURTHER CERTIFY THAT ON THIS SAME DATE I HAVE MAILED A COPY OF THIS NOTICE TO THE FOLLOWING PERSONS TO THEIR ADDRESSES OF RECORD, HAVING FILED A COPY OF THIS NOTICE INTO THE RECORD ON THIS SAME DATE.

COLON CRUZ, HECTOR
P.O. BOX 13282
SAN JUAN, PR 00908-3282

MONTANEZ DELERME, EMILIO A.
P.O. BOX 6645
SAN JUAN, PR 00914-6645

ENG. JAIME ISERN PINEIRO (APPRAISER)
P.O. BOX 70359
SAN JUAN, PR 00921

SAN JUAN, PUERTO RICO, THIS 21TH OF MARCH OF 1996.

PAULITA SANTIAGO

SECRETARY

SIGNED
FOR: MARITZA ROSA LOZADA

ASSISTANT SECRETARY

C.A.T. 750 - NOTICE OF ORDERS AND RULINGS.

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
TRIAL COURT
SAN JUAN SUPERIOR COURT

ERNESTO ALVAREZ LAZZARINI	*Civil No. KAC95-1036	
	*	
Plaintiff	*	
	*	SUBJ:
Vs.	*	
	*	
NANCY LAMADRID LAZZARINI	*	SETTLEMENT OF
	*	COMMUNITY
Defendant	*	PROPERTY
	*	

****

MINUTES

Appearing at the pre-trial hearing are attorneys Emilio A. Montañez Delerme representing the plaintiffs; Rafael A. Oliveras López de Victoria representing the defendant, and attorney Héctor A. Colón Cruz representing Teresita Lamadrid.

In a meeting held in chambers, the court ruled as follows:

The plaintiff indicates that within the report provided by manager Nancy Lamadrid, documents in support of same were not provided. Defendant indicates that the documents are voluminous. The defendant shall deposit said documents at "Fast Printing" to photocopy - at her own cost - whichever the defendant indicates; being ruled that said

expenses are reimburseable from those funds deposited at the Court, charged to the inherited assets.

It is noted that on April 19th of 1996, the defendant will take a deposition at the offices of attorney López de Victoria at 2:00 p.m. in the afternoon. On April 26th of 1996, the plaintiff will take a deposition of co-defendant Teresita Lamadrid, at 2:00 p.m. in the afternoon.

The procedure to contract the "Century" real estate firm is temporarily suspended, and attorney Colón Cruz will contact said firm as to inform them about the suspension.

Attorney Montañez Delerme informs that Mr. José Benítez has stated that he has a right to an option over the inmovable property object of the inheritable estate; to said effect, he shall forward a letter aauthorized by all parties, requesting proof of said right, and providing a time period of no more than 5 days to produce same.

The parties have agreed that of the $30,000.00 in funds consigned, $27,000.00 shall be deposited into a savings account with the highest available interest rate, and the remainder shall be leftover to pay for the estate's expenses.

Certified:

For: PAULITA SANTIAGO

Assitant Secretary

Date: April 10th, 1996

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
TRIAL COURT
San Juan Superior Court

ERNESTO ALVAREZ LAZZARINI	*Civil No. KAC95-1036	
	*	
Plaintiff	*	
	*	SUBJ:
Vs.	*	
	*	
NANCY LAMADRID LAZZARINI	*	SETTLEMENT OF
	*	COMMUNITY
Defendant	*	PROPERTY
	*	

****

MINUTES

As far as the order issued by the Court as to depositing of the rents, same is voided, and the parties shall examine tha income and expense report, so that the court can later reinstate the order, if necessary.

The plaintiff is granted a time period of 20 days to sustain their constitutional allegations; if not so done, they shall lose said right, and will be considererd as waived.

The pre-trial hearing is scheduled for June 13th of 1996, at 9:00 a.m.

Notify copy this 10th of April of 1996.

Att. Rafael A. Oliveras Lopez de Victoria
422 Agueybana St.
San Juan, PR 00918

Att. Héctor A. Colón Cruz
P.O. Box 13282
San Juan, PR 00908-3282

Att. Emilio Montañez Delerme
P.O. Box 6645
San Juan, PR 00914-6645

Schedule: 9:45 a.m. - 10:30 a.m.

Minutes Volume Number_____
Marshall's Name: Miguel A. Seijo
Judge's Name: Wilfredo Alicea Lopez
Certified: Paulita Santiago
Court Reporter's Name: In Chambers
Date: April 10th, 1996

COMMONWEALTH OF PUERTO RICO
TRIAL COURT
SAN JUAN SUPERIOR COURT

ERNESTO ALVAREZ LAZZARINI, ET ALS	*CIVIL NO. (803) *KAC-95-1036
Plaintiff	*
Vs.	* SUBJ:
NANCY LAMADRID LAZARRINI	*SETTLMENT OF *INHERITABLE
Defendants	*ASSETS

****

MOTION REQUESTING THAT CO-DEFENDANT NANCY LAMADRID ALVAREZ BE ORDERED TO SIGN OPTION TO PURCHASE DOCUMENT
TO THE HONORABLE COURT

COMES NOW the plaintiff represented by the undersigning attorney, and very respectfully alleges and prays:

1. In accordance with the information provided tc the Court on date of the Status Conference for this :ase, the existence of a promise of sale for the building of Mrs. Delia Esther Alvarez and of leaseholder José Benítez Martínez, was verified.
2. Mr. José Benítez Martínez visited the offices o the

plaintiff's lawyer, and accepted to purchase the building for the appraisal price stated on February 6th of 1996, and which was accepted by all parties.

3. On date of April 3rd of 1996, day in which a deposition was taken from co-defendant Lillian Alvarez Lazzarini, all parties excepting Nancy Lamadrid Alvarez signed the option to purchase contract.
4. We cannot understand the reason why the co-defendant refuses to sign the option document, when she does not have any objection to the appraisal.
5. That the plaintiff is interested in the Court's intervention in this matter, or that it issue an Order directed to the co-defendant, so as to sign the option contract, under penalty of contempt.

WHEREFORE it is very respectfully requested that this Honorable Court Grant this motion, and order co-defendant NANCY LAMADRID ALVAREZ to sign the option to purchase contract.

I CERTIFY: To have sent a copy of the present document to attorney Rafael A. Oliveras López de Victoria, #422 Agueybaná Street, Hato Rey, Puerto Rico; Att. Héctor Colón Cruz, Box 13282, San Juan, Puerto Rico 00928.

In San Juan, Puerto Rico this 20th of May of 1996.

(signed)

EMILIO A. MONTANEZ DELERME
BAR # 6217 - P.O. BOX 6645
SAN JUAN, P.R. 00914-6645
TEL. 727-3261\ FAX 728-5405

COMMONWEALTH OF PUERTO RICO
TRIAL COURT
SAN JUAN SUPERIOR

ERNESTO ALVAREZ LAZZARINI	*	CIVILNO.KAC95-1036
	*	
Plaintiff	*	DIV: 803
	*	
Vs.	*	SUBJ: SETTLEMENT OF
	*	INHERITED ASSETS
NANCY LAMADRID, ET ALS	*	
	*	
Defendants	*	

****

MOTION RELATING TO MINUTES AND REPLY TO MOTION BY THIRD PARTY DEFENDANT

TO THE HONORABLE COURT:

COMES NOW co-defendant **Nancy Lamadrid Alvarez,** through her undersigning attorney, and respectfullyt State, Allege and Pray:

1. In this present complaint, defendant Teresa Lamadrid intends to convince this Honorable Court that co-defendant Nancy Lamadrid had agreed to sale of the building object of this case, to the leaseholder. See motion titled "Motion Requesting Party to Comply with Court Order".
2. We would respectfully wish to point out that

co-defendant Nancy Lamadrid never expressed herself as to said sale to the leaseholder, for these three reasons:

a. At the time of the hearing on April 10th of 1996, she did not have the lease contract at hand.
b. She had not perused the expert's appraisal report and had not expressed herself as to same;
c. Nancy Lamadrid never manifested herself to the Honorable Court in relation to this personally either, as so occurs in December of 1995; nor through this undersignor, who neither had the elements to judge and resolve said situation.

Given this, the undersignor surmises that the request pointed out by plaintiff Teresa Lamadrid is improper since there has been no consent from the herein appearing party. We would like to point out that on the day the dposition is taken, co-plaintiff Lillian Alvarez, colleague Emilio Montañez gives us a document so that Mrs. Nancy Lamadrid, who was present, proceed to sign it. On several occasions during that afternoon they demanded, in a hurried manner, that said document be signed.

We indicated to said colleague to give us a period of time as to meet with my retainer in a cool and collected manner, so she could ponder the extension of the above stated document. The next thing we received was the above stated Motion from colleague Héctor Colón Cruz.

In view of this situation, we indicated that Mrs. Nancy Lamadrid was interested in purchasing said inmovable property and was carrying out the neceesary steps to finance same.

WHEREFORE, we respectfully request that this Honorable Court DENY the motion titled "MOTION REQUESTING PARTY TO COMPLY WITH COURT ORDER" since there has not been any clear, expressed and unequivocal consent by co-defendant Nancy Lamadrid.

RESPECTFULLY SUBMITTED

I CERTIFY: To have mailed copy of the above document to; Att. Emilio A. Montañez Delerme, P.O. Box 6645, San Juan, Puerto Rico 00914-6645; Att. Héctor A. Colón Cruz, Box 13282, San Juan, Puerto Rico 00908.

In San Juan, Puerto Rico this 21st of May of 1996.

(signed)
RAFAEL A. OLIVERAS LOPEZ DE VICTORIA
422 AGUEYBANA STREET
HATO REY, P.R. 00918
TELEPHONE: 764-3280
BAR # 5588

176pa

OPTION TO PURCHASE CONTRACT

In the city of San Juan, Puerto Rico this day of the month of April of 1966.

----------APPEAR----------

-----**ON ONE PART: MR. ERNESTO ALVAREZ LAZZARINI,** social security number 582-05-8351, of legal age, married to **NOELIA NAZARIO LAZZARINI,** a property owner and a resident of Santurce,Puerto Rico; **MRS. LILLIAN ALVAREZ LAZZARINI,**social security number 582-14-9245, of legal age,single,property owner and a resident of Santurce,Puerto Rico; **MRS.NANCY LAMADRID ALVAREZ,** social security number of legal age, married to Juan Bonini Figueroa, property owner and resident of Santurce, Puerto Rico; **MRS. TERESA LAMADRID ALVAREZ** , social security number single, property owner and a resident of Río Piedras, Puerto Rico, henceforth known as **THE SELLERS.**----------

-----**ON THE OTHER PART: MR. JOSE BENITEZ MARTINEZ,** social security number 584-62-8168, and his wife **MRS. LILIANA BERRIOS GUTIERREZ,** both of legal age, businesss owners, and residents of Carolina, Puerto Rico, heneceforth called **"THE PURCHASERS"**----------

----------WHO STATE----------

-----**FIRST:** That the SELLERS hereby grant the purchasers an option upon the property described as follows:----------

-----**Lot located at the Machuchal sector, of the Nothern Section of Santurce Ward, in San Juan, Puerto Rico. It contains a completed three story building, being the first floor commercial; the two upper levels are residential, with two residences each, and numbered as one thousand eight hundred and eighteen of Loíza Street.The lot measures twelve meters in frontage, and twenty five meters in depth, that is, three hundred square meters. The front end faces NORTH, and abbuts with what today is Loíza Street; on the SOUTH, with lands previously owned by Gerónimo del Rosario, currently belonging to Mr. Rafael and Mr. Antonio Martínez; on the WEST, with property of Nicasio Calderón and on the EAST, with the lands of Gerónimo del Rosario.**----------

-----REGISTERED: Under page 131, Volume 385 of Santurce North, lot 478.----------

-----**SECOND:** That parties have agreed that the sum of $244,000.00 dollars is the sale price for said inmovable (property).----------

-----**THIRD:** The **SELLER** grants the **PURCHASER** a term of sixty (60) days beginning on date of signature of the contract, to purchase said inmovable property.----------

-----**FOURTH:** The **SELLERS** bind themselves to not sell said property during the term of this contract.----------

-----**FIFTH:** The **PURCHASERS** will advance the sum of $_____ to the **SELLERS** for purposes of this option, which will be credited to the sales price.----------

-----**SIXTH:** This option will be subject to approval of a

mortgage loan.----------

-----**SEVENTH:** The property shall be sold without any equipment, and in its current condition, and any improvements upon same will be upon account of the **PURCHASING PARTY.**----------

------**EIGHTH:** The parties state that there exists no kinship between them.----------

(Signed by) (Signed by)

Lillian Alvarez Lazzarini J. Benítez Martínez

Teresa Lamadrid Alvarez Lilian Berríos G

Ernesto Alvarez Lazzarini

SELLERS PURCHASERS

AFFIDAVIT NUMBER

Sworn and signed before me by the above stated parties, of said stated personal circumstances, and who I attest to have personally known and identified in San Juan, Puerto Rico, this day of March of 1996.

(No Notarial Seal or Signature)

NOTARY PUBLIC